

Mining and Lands Tribunal
Tribunal des Mines et des Terres



ISSUE DATE: November 22, 2018

CASE NO.: MA 010-18

PROCEEDING COMMENCED UNDER section 175 of the *Mining Act*, R.S.O. 1990, c. M. 14, as amended

Applicants: Goldcorp Canada Ltd. & Goldcorp Inc.
Respondents: The Estate of Leopold Mascioli, Loretta Stirling, Anthony Mascioli, Daniel J. Mascioli, Elio Mascioli, T. Rutherford Langdon, Charles Bardessono, Douglas Haig Pillsworth, Eva Cameron Girardot, Harrison T. Watson, Chester Palmer O'Hara, and each of their Executors, Heirs, Successors or Assigns

Subject: Grant of Rights Over Lands in Connection With the Proper Working of a Mine

Property Address/Description: All surface rights relating to PCL 2423 SEC SEC, bearing PIN #65442-0241 (LT) and PCL 11677 SEC SEC SRO bearing PIN #65442-0240 (LT)

Township: Deloro Township

MLT Case No.: MA 010-18

MLT Case Name: Goldcorp Canada Inc. v. Bardessono et al.

Heard: In writing

APPEARANCES:

Parties

Goldcorp Canada Ltd. and
Goldcorp Inc.

Counsel

Timothy Pinos and Tegan O'Brien

ORDER OF THE TRIBUNAL DELIVERED BY MAUREEN CARTER-WHITNEY

REASONS

Background

[1] Goldcorp Canada Ltd. and Goldcorp Inc. (“Goldcorp”) filed an application with the Mining and Lands Tribunal (“Tribunal”) on November 13, 2018, pursuant to s.175(1)(a), (b), (f), (g) and (i) of the *Mining Act* for the grant of rights over lands in connection with the proper working of a mine (“Application”).

[2] Goldcorp owns and operates the Porcupine Mines Joint Venture, which consists of operating and non-operating mining properties in and around Timmins, Ontario.

[3] Two of the non-operating properties owned by Goldcorp in the Timmins area are the Dome Underground mine and the Dome Open Pit mine (“Dome mine area”).

[4] Goldcorp seeks to redevelop the Dome mine area into a new operating mine, which will require an expanded open pit mine, processing facilities, new waste rock storage areas (“WRSAs”) and a new tailings management area (“TMA”) (“proposed mine”).

[5] While Goldcorp owns almost all of the land that it requires for the new WRSAs and TMA, it does not own the surface rights for two parcels of land in Deloro Township that are essential for the operation of the proposed mine. These are Parcel 11677 SEC SEC SRO (PIN # 65442-0240) consisting of 21.79 acres and Parcel 2423 SEC SEC (PIN # 65442-0241) consisting of 45.83 acres (“subject lands”).

[6] Both parcels in the subject lands have the same registered co-owners as tenants-in-common and the same fractional ownership, as follows: the Estate of Leopold Mascioli (Loretta Stirling, Anthony Mascioli, Daniel J. Mascioli, Elio Mascioli) (3/24th); Douglas Haig Pillsworth (6/24th); Charles Bardessonno (3/24th); Chester Palmer

O'Hara (4/24th); T. Rutherford Langdon (4/24th); Eva Cameron Girardot (2/24th); and Harrison T. Watson (2/24th) (together, the "Respondents"). With two exceptions, each of the registered owners acquired their interest in 1948; in the remaining two cases, interests were transferred to the Estate of a co-owner and the heir of a co-owner in 1952 and 1963, respectively. There have been no subsequent dealings with the subject lands. Goldcorp has attempted to locate and contact the registered co-owners of the subject lands or their heirs, and has retained an investigation firm to assist with this. Goldcorp has confirmed that Mr. Pillsworth, Mr. Bardessono, Mr. O'Hara and Mr. Langdon are now deceased. Goldcorp has not confirmed the deaths of Ms. Girardot and Mr. Watson, but it is highly unlikely that they are still alive given their respective birthdates in 1898 and 1907.

[7] Goldcorp is the recorded holder of the unpatented mining rights underlying the subject lands; the only outstanding issue is the use of the surface rights of the subject lands.

[8] Goldcorp seeks the following orders from the Tribunal under s. 175 of the *Mining Act*: an order specifying to whom and the manner in which notice of this Application is to be given; an order vesting certain rights in Goldcorp over and with respect to the subject lands; an order fixing the compensation for the rights granted and determining the manner of their payment; and in the event that this Application is opposed by any party, the costs of this Application. This Order addresses the Tribunal's direction to Goldcorp concerning to whom and the manner in which notice of the Application is to be given.

[9] Goldcorp has located the executors, heirs, successors or assigns of the Estate of Leopold Mascioli, Mr. Pillsworth, Mr. O'Hara, Mr. Langdon and Mr. Watson, who will be served with Notice of this Application, including a copy of this Order, by Goldcorp, with proof of Notice being provided to the Tribunal, all by electronic mail.

[10] Goldcorp has been unable to locate the executors, heirs, successors or assigns of Mr. Bardessono or Ms. Girardot, who will therefore need to be given Notice of this

Application before a determination can be made by the Tribunal.

[11] The Tribunal has determined that Notice to the executors, heirs, successors or assigns of Mr. Bardessonno and Ms. Girardot should be by way of publication in the Northern Miner and in a newspaper in the city or town where each of the respondents last resided. For Mr. Bardessonno, this was Hibbing, Minnesota, and for Ms. Girardot, this was Malden, Massachusetts. Newspapers with circulation in those areas are the Hibbing Daily Tribune and the Malden Observer.

ORDER

[12] The Tribunal orders Goldcorp to give Notice of this Application to the Respondents, pursuant to s. 175(4) of the *Mining Act*.

[13] The Tribunal directs Goldcorp to serve Charles Anthony Bardessonno, or his counsel, executors, heirs, successors or assigns, with Notice of this Application in the Northern Miner and the Hibbing Daily Tribune, with proof of publication filed with the Tribunal by electronic mail. The text of this Notice is outlined in Schedule A to this Order.

[14] The Tribunal further directs Goldcorp to serve Eva Cameron Girardot, or her counsel, executors, heirs, successors or assigns, with Notice of this Application in the Northern Miner and the Malden Observer, with proof of publication filed with the Tribunal by electronic mail. The text of this Notice is outlined in Schedule A to this Order.

[15] The Tribunal directs Goldcorp to serve Notice of this Application, including a copy of this Order, by electronic email, to the Estate of Leopold Mascioli, Douglas Haig Pillsworth, Chester Palmer O'Hara, T. Rutherford Langdon and Harrison T. Watson, or their counsel, executors, heirs, successors or assigns, with proof of Notice filed with the Tribunal by electronic email.

[16] The Tribunal directs the Respondents, or their executors, heirs, successors or assigns to file notice of their intention to appear with the Tribunal's Registrar by electronic mail at daniel.pascoe@ontario.ca, no later than December 31, 2018. If they do not contact the Tribunal within that time period, the Application may be granted.

[17] This Tribunal further directs Goldcorp to serve Notice of this Application by electronic mail to Scott Cousineau, Manager, Data Management Unit, Ministry of Energy, Northern Development and Mines at scott.cousineau@ontario.ca, pursuant to s. 175(8) of the *Mining Act*.

"Maureen Carter-Whitney"

MAUREEN CARTER-WHITNEY
VICE-CHAIR

Schedule A – Notices to be published

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Mining and Lands Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

Schedule A

Notices to be published**TO THE EXECUTORS, HEIRS, SUCCESSORS OR ASSIGNS OF
CHARLES ANTHONY BARDESSONO**

Charles Anthony Bardessono of Hibbing, Minnesota, is a co-owner of the surface rights of two parcels of land in Deloro Township, Timmins, Ontario, Canada under PIN #65442-0240 and PIN #65442-0241 ("Parcels"). It is believed that he passed away in 1976.

Goldcorp Canada Ltd. and Goldcorp Inc. ("Goldcorp") have commenced an application pursuant to section 175 of the *Mining Act* (Ontario) before the Mining and Lands Tribunal ("Tribunal") for an order giving it the right to use the Parcels in return for compensation.

Executors, legal heirs, successors or assigns of Mr. Bardessono may be entitled to compensation for the loss of their rights to the Parcels if the application is successful and the Tribunal makes the order requested by Goldcorp. The publication of this notice should not be construed as evidence that any party is entitled to compensation.

If you are an executor, heir, successor or assign of Mr. Bardessono or are otherwise entitled to the interest of Mr. Bardessono in the Parcels, you may obtain a copy of the application and more information by contacting Goldcorp counsel, Cassels, Brock and Blackwell LLP via email at miningapp@casselsbrock.com.

If you wish to participate in the application, you must file your notice of intention to appear with the Mining and Lands Tribunal, 655 Bay Street, Suite 1500, Toronto, Ontario M5G 1E5 by mail or courier, or email to the Registrar at daniel.pascoe@ontario.ca, or fax at (416) 326-5370 **no later than December 31, 2018**.

**TO THE EXECUTORS, HEIRS, SUCCESSORS OR ASSIGNS OF
EVA CAMERON GIRARDOT**

Eva Cameron Girardot of Malden, Massachusetts, is a co-owner of the surface rights of two parcels of land in Deloro Township, Timmins, Ontario, Canada under PIN #65442-0240 and PIN #65442-0241 ("Parcels"). It is believed that she is deceased.

Goldcorp Canada Ltd. and Goldcorp Inc. ("Goldcorp") have commenced an application pursuant to section 175 of the *Mining Act* (Ontario) before the Mining and Lands

Tribunal (“Tribunal”) for an order giving it the right to use the Parcels in return for compensation.

Executors, legal heirs, successors or assigns of Ms. Girardot may be entitled to compensation for the loss of their rights to the Parcels if the application is successful and the Tribunal makes the order requested by Goldcorp. The publication of this notice should not be construed as evidence that any party is entitled to compensation.

If you are an executor, heir, successor or assign of Ms. Girardot or are otherwise entitled to the interest of Ms. Girardot in the Parcels, you may obtain a copy of the application and more information by contacting Goldcorp counsel, Cassels, Brock & Blackwell LLP, via email at miningapp@casselsbrock.com.

If you wish to participate in the application, you must file your notice of intention to appear with the Mining and Lands Tribunal, 655 Bay Street, Suite 1500, Toronto, Ontario M5G 1E5 by mail or courier, or email to the Registrar at daniel.pascoe@ontario.ca, or fax at (416) 326-5370 **no later than December 31, 2018**.