

**IN THE MATTER BEFORE THE PROVINCIAL  
MINING RECORDER**

**IN THE MATTER OF:** Recorded mining claims L 4204169 and L 4204170 located in Truax Township, Larder Lake Mining Division.

**AND IN THE MATTER OF:** “Filed only” mining claims 4201105 and 4201106 staked by David Laronde on behalf of Tres-Or Resources Ltd. and which overstate the above recorded claims.

**AND IN THE MATTER OF:** “Filed only” mining claim 4201100 staked by David Laronde on behalf of Tres-Or Resources Ltd. and which overstates a portion of recorded claim L4204169.

**AND IN THE MATTER OF:** a dispute filed by:

DAVID LARONDE for  
TRES-OR RESOURCES LTD

**Disputant**

- against recorded claims L 4204169 and L 4204170 held by:

CONTACT DIAMOND CORPORATION

**Respondent**

**UPON:** consideration of the evidence submitted by the parties,

**I ORDER:** that the dispute is hereby allowed.

**I FURTHER ORDER THAT:** mining claims L 4204169 and L 4204170 are hereby cancelled as of the date of this order.

**I FURTHER ORDER THAT:** “Filed only” application to record mining claims 4201105 and 4201106 are hereby recorded as of the date received and that the time for which it was pending before the Mining Recorder being 334 days be excluded.

**I FURTHER ORDER:** pursuant to 67(3) of the Mining Act, the 22<sup>nd</sup> day of December 2008, be fixed as the date by which the first unit of assessment work must be performed and filed on mining claims 4201105 and 4201106 and all subsequent anniversary dates are deemed to be December 22.

**I FURTHER ORDER:** “Filed-only” application to record mining claim 4201100 is hereby recorded as of the date filed.

Dated at Sudbury, this 22<sup>nd</sup> day of December 2006.

*Original signed by Roy Denomme*

**Roy Denomme**  
**Provincial Mining Recorder**

**Note: Parties have the right to appeal to the Mining and Lands Commissioner as indicated in Section 112 of the Mining Act RSO 1990. An appeal must be filed within 30 days of the date of this decision.**

A hearing was held on August 23, 2006, in New Liskeard to determine this matter.

David Laronde and Laura Lee Duffett attended in person and made submissions on behalf of the disputant.

Robert Peever attended on behalf of the respondent.

### **BACKGROUND:**

On January 12, 2006, the Ministry received applications to record mining claims L 4204169 and L 4204170 located in Truax Township. The claims were staked under the direction of Recording Licensee Denis Presseault, on behalf of Contact Diamond Corporation, and were part of a large group of claims staked in the area. The applications to record indicate that the claims were staked on December 28, 2005 and December 23, 2005, respectively. The claims were subsequently recorded.

On January 14 and 15, 2006, Mr. Laronde, Recording Licensee and helpers Daniel St. Pierre and Pascal St. Pierre attended the area to stake claims on behalf of Tres-Or Resources Ltd.

While checking for open ground in the area they noted some evidence of staking including the No. 3 corner of L 4204168, erected by F. Gauthier (**location A on attached map**) which makes up the north ½ of Lot 11 Conc. 4. On the same post they found the line tag for L 4204169, stating that the No. 1 post was 800 metres north. They could not find any evidence however of the line continuing south. The boot tracks in the snow and flagging stopped at this location and looked to have been made around the date inscribed on the post being December 28, 2005.

Mr. Laronde and helpers searched for some time without success for the east claim line of L 4204169, which should have continued south. They eventually concluded that the staking of L 4204169 had been abandoned and proceeded to stake the area to the south and east which included the S ½ of Lot 12 Conc. 4 and N ½ Lot 12 Conc. 3 and Lot 11 Conc. 3.

On January 23, 2006, Mr. Laronde subsequently filed applications to record mining claims 4201105 and 4201106 which were taken as "Filed only" since the Ministry had already recorded claims in these areas filed by Denis Presseault on behalf of Contact Diamond Corporation.

On January 31, 2006, Mr. Laronde filed a dispute against mining claims L 4204169 and L 4204170, alleging that the staking was not done as a continuous action and that the applications to record had been submitted prior to the completion of staking.

Mining claim 4201100 was staked on January 23, 2006, by David Laronde and T. Von Cardinal on behalf of Tres-Or Resources Ltd. It was received on January 27, 2006, and taken

as “filed only” as it over-staked the north 1/3 of L 4204169. This claim has been continued pending the outcome of the dispute filed against L 4204169.

**Findings:**

During the hearing and in his inspection report Mr. Laronde stated that on January 14, 2006, mining claim L 4204169 had only been partially staked. The only staking evidence that existed was either at or north of the road which traverses the claim in a northeast to southwest direction. There were no posts or staking evidence in the southern part of the claim.

Bob Bailey’s inspection of the same claim performed on February 9 and 21, 2006, showed that most claim posts were in their proper location in the southern part of the claim.

This suggests that the staking of the claim was completed sometime after January 14, 2006, and before February 9, 2006, even though the application to record was received in the Mining Lands Consultant’s Office, in Kirkland Lake, on January 12, 2006.

Mr. Laronde stated at the hearing and in his report that there was no field evidence of mining claim L 4204170 being staked prior to January 14, 2006. This was confirmed in two sworn affidavits submitted as exhibits 4 and 5 by Daniel and Pascal St. Pierre.

The disputant provided two inspection reports detailing the staking activity in the area. One report was completed by David Laronde while an independent 3<sup>rd</sup> party, Bob Bailey was contracted to report on the staking on behalf of the disputant. Both have been submitted as exhibits.

During the hearing, Mr. Laronde stated that throughout the staking of 4201105 and 4201106 on January 14, 2006, they found very little evidence of the staking of L 4204169 and L 4204170. In fact the only staking evidence found was at **locations A and B** (see attached map). At **location A**, a line post was located for 4204169 with the inscription (No. 1 - 800 metres north). At **location B**, a line post was located for 4204169 with the inscription (No 3 800 metres south)

Mr. Laronde returned to the field on January 15, 2006, to complete the staking of 4201105. He stated that while completing the north boundary of the claim he observed fresh boot tracks at **location C**, on top of his snowmobile trail. Out of curiosity he followed the tracks to **location B** where they turned south on the west claim line of L 4204169. The boot tracks were now on top of his tracks from January 14, 2006.

On January 23, 2006, Mr. Laronde and Tom Von Cardinal returned to the area to do an inspection of L 4204169. The Laronde report submitted at the hearing stated that new claim posts had been erected on both disputed mining claims since Mr. Laronde and his helpers initial staking on January 14, 2006. The report prepared by Bob Bailey submitted at the hearing also confirmed this staking activity.

The key piece of evidence presented in the two reports centers around the common # 3 corner for mining claim L 4204169 and “filed only” claim 4201105. At **location D** both loose posts made by Mr. Gauthier and Mr. Laronde were cut from the same tree. This was demonstrated in photographs taken by Mr. Laronde and Mr. Bailey which showed that Mr. Gauthier’s post

had a large piece of bark protruding from the top which matched perfectly the exposed base of the loose post of Mr. Laronde. Furthermore, measurements confirmed that the Gauthier post was smaller and made from the remains of the felled tree after Mr. Laronde had made his post.

Mr. Peever did not file any submissions or exhibits at the hearing. He did not respond to or challenge the evidence presented by the disputants. Mr. Presseault who was the Recording Licensee for the staking of L 4204169 and L 4204170, did not attend the hearing to provide evidence for the respondent.

This evidence strongly supports the argument that the completion of L 4204169 and L 4204170 was not as noted on the application to record, being December 28, 2005 and December 23, 2005. Based on the evidence presented, it appears obvious that the staking of these two claims, although commenced prior to the Laronde staking, were not completed until some time after January 23<sup>rd</sup>, 2006 at least 8 days after Laronde had completed the staking of 4201105 and 4201106. It is further concluded that the Recording Licensee filed an application to record mining claims L 4204169 and L 4204170 on January 12, 2006, either with the knowledge that these claims had not been completed, or without confirming with his assistants that the staking was completed.

Based on these findings, the Tribunal concludes that mining claims L 4204169 and L 4204170 were completed after the completion of the Laronde staking and therefore the Laronde staking would have priority of recording pursuant to subsection 44(2) of the Mining Act.

*Section 44(2) of the Mining Act states:*

*(2) Priority of completion of staking shall prevail where two or more licensees make application to record the staking of all or a part of the same lands.*

The filing of the applications to record for mining claims L 4204169 and L 4204170 on January 12, 2006 by Mr. Presseault, and in his affidavit on the application stated that “he was personally on the ground during the staking” and that completion of staking was December 28<sup>th</sup> and December 23<sup>rd</sup> 2005 respectively, is a contradiction. Either Mr. Presseault was not on the ground when the claims were staked to verify when they were completed, or he was on the ground and knowingly falsified the application to record to indicate the December completion.

*Section 44(1.2) of the Mining Act states:*

*The recorder or the Commissioner may, after a hearing, cancel the recording of a licensee or holder who knowingly made a false statement in the application to record the claim.*

*Section 71(1) of the Act states:*

*Non-compliance by the licensee or holder of a mining claim with any requirement of this Act or the regulations as to the time or manner of the staking out and recording of*

*a mining claim or with a direction of the recorder in regard thereto, within the time limited therefore, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out.*

Based on the above findings, mining claims L 4204169 and L 4204170 are hereby cancelled as of the date of this order.

Application to record “filed only” mining claims 4201105 and 4201106 are hereby recorded as of the date filed. Furthermore “filed only” mining claim 4201100 is hereby recorded as of the date filed.

*Original signed by Roy Denomme*

Roy Denomme  
Provincial Mining Recorder

**Exhibits**

Exhibit # 1 – Report on the Truax Twp Staking - prepared by David Laronde

Exhibit # 2 - Report on Mining Claim Inspection L 4204169 – prepared by Bob Bailey

Exhibit # 3 – Letter from Jacques Frigon, Lawyer re: affidavits provided by Pascal and Daniel St. Pierre

Exhibit # 4 - Affidavit from Daniel St. Pierre stating that he and helper Pascal St. Pierre staked mining claim 4201106 on the morning of January 14, 2006, and that they did not observe any evidence of other staking activity in the area.

Exhibit # 5 – Affidavit from Pascal St. Pierre stating that he assisted Daniel St. Pierre with the staking of mining claim 4201106 on the morning of January 14, 2006, and that they did not observe any evidence of other staking activity in the area.

