

1 of 2 DOCUMENTS

*Case Name:*

**Algoma-Talisman Minerals Ltd. v. Ontario (Minister of Northern  
Development and Mines)**

**Between**

**Algoma-Talisman Minerals Limited, Applicant (Appellant), and  
Her Majesty the Queen in Right of the Province of Ontario as  
represented by The Minister of Northern Development and Mines,  
The Attorney General of Ontario and by The Minister of Energy  
and Infrastructure, Respondent (Respondent)**

[2010] O.J. No. 4942

2010 ONCA 789

[2011] 2 C.T.C. 91

Docket: C52098

Ontario Court of Appeal  
Toronto, Ontario

**M. Rosenberg, M.J. Moldaver and A. Karakatsanis JJ.A.**

Heard: November 18, 2010.

Judgment: November 18, 2010.

Released: November 19, 2010.

(2 paras.)

**Appeal From:**

On appeal from the judgment of Justice Thomas Bielby of the Superior Court of Justice dated April 14, 2010.

**Counsel:**

Paul Bates and Robert Gain, for the appellant.

Michael Stephenson, for the respondent.

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**APPEAL BOOK ENDORSEMENT**

The following judgment was delivered by

**1** THE COURT:-- We agree with the application judge that the definition of "mining rights" in the *Mining Act*, R.S.O. 1990, c. M.-14, is controlling. In exercising the option in 1989 the appellant acquired the right to the minerals, thus falling within the definition of mining rights. Accordingly, the appellant became liable for the tax in accordance with s. 189(1)(e) of the Act. While the industry may well differentiate between surface rights and surface access rights, for the purpose of tax liability under s. 189(1)(e), no such distinction is drawn. The language of the Reservation did not take this case outside the definition of mining rights in the Act.

**2** Accordingly, the appeal is dismissed with costs fixed at \$10,000 inclusive of disbursements and applicable taxes.

cp/e/qlrxg/qlvxw/qlhcs