

FILE NO.: SCT-4001-12 and SCT-4001-13
DATE: 20150424

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)
)
WAYWAYSEECAPPO FIRST NATION)
)
Claimant) Earl C. Stevenson and Norman Boudreau,
) for the Claimant
)
- and -)
)
HER MAJESTY THE QUEEN IN RIGHT) Jeff Echols, for the Respondent
OF CANADA)
As represented by the Minister of Indian)
Affairs and Northern Development)
)
Respondent)
)
)
AND BETWEEN:)
)
GAMBLERS FIRST NATION) Stephen Pillipow and Adam Touet, for the
) Claimant
Claimant)
)
- and -)
)
HER MAJESTY THE QUEEN IN RIGHT)
OF CANADA)
As represented by the Minister of Indian)
Affairs and Northern Development)
)
Respondent) Jeff Echols, for the Respondent
)
)
)
)
HEARD: April 20, 2015

ENDORSEMENT

Honourable W.L. Whalen

A Pre-Hearing Conference was held by teleconference on April 20, 2015, at 1:00 P.M., Eastern Time (Ottawa).

[1] The Parties indicated that they had not agreed to an oral history protocol in this matter but had agreed to an order of questioning and process for the oral history hearing commencing on the afternoon of April 27, 2015. Waywayseecappo First Nation's Elders will provide its oral history evidence first, followed by the Elders of the Gamblers First Nation. Counsel for Waywayseecappo First Nation plans to arrange for the introduction of its oral history witnesses with appropriate outline of background and status to provide such testimony, but will confirm these arrangements with its client. The Chief of Gamblers First Nation will perform the same function for its witnesses. Each First Nation will question its witnesses in chief followed by cross-examination by the Respondent and the other First Nation in that order, and with a right of follow up questioning on new matters raised through cross-examination. The Parties agreed to refrain from voicing objections during oral testimony, and instead to resolve objections after the hearing. The Claimants also agreed to file the "Will-Say" statements of their testifying Elders with the Tribunal.

[2] Counsel for Gamblers First Nation stated that its testifying Elders would not require translation or interpretation. Counsel for Waywayseecappo First Nation indicated that, while all of its testifying Elders spoke English, they wish to give some parts of their testimony in their own language and thus require interpretation. The Tribunal directs that Mr. Walter Mentuck be engaged as an interpreter.

[3] The Parties confirmed that they would commence the oral history hearing with an opening prayer by Elder Louis Bird of the Waywayseecappo First Nation. There will also be a smudging ceremony, perhaps accompanied by the passing of tobacco. The Parties were advised

that the Registry was in the process of clearing the ceremony with the facility where the hearing will be held, which has now been done. The Parties are requested to advise the Registry of the details of the ceremony at the soonest possible time.

[4] The Parties are requested to indicate how their respective witnesses prefer to take an oath before testifying. They are requested to advise the Registry before the hearing.

[5] In respect of the Lockhart Report, the Tribunal asked for clarification of the possible consequences of the Crown's stipulation that the quorum requirements of the *Indian Act* had not been satisfied in the subject surrender. The Respondent indicated that the stipulation was not an admission of validity. The Claimants indicated that they would proceed with their claims without modification. As a result, there would be no amendment of the Agreed Statement of Issues.

[6] The Application in respect of admissibility of the Lockhart and Holmes Reports will proceed without consideration of the qualification of experts.

[7] Waywayseecappo First Nation is directed to immediately file a copy of the Lockhart Report.

[8] Counsel for the Respondent and Gamblers First Nation reported that they had exchanged information by email in respect of reconciling differences in the calculations of the Babiuk and Rogers Reports. As a result, they agree that no further information is required. Counsel for Waywayseecappo First Nation indicated that he had not been included in these communications. Other counsel will immediately provide Waywayseecappo First Nation's counsel with copies of their respective emails on this question.

[9] The Parties reported that work on the Agreed Statement of Facts and Common Book of Documents cannot progress further until resolution of the pending Application.

W.L. WHALEN

Honourable W.L. Whalen