

SPECIFIC CLAIMS TRIBUNAL

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TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES	
F I L E D	November 14, 2013
Amy Clark	
Ottawa, ON	10

BETWEEN:

KAWACATOOSE FIRST NATION, PASQUA FIRST NATION,
PIAPOT FIRST NATION, MUSCOWPETUNG FIRST NATION,
GEORGE GORDON FIRST NATION, MUSKOWEKWAN FIRST NATION,
AND
DAY STAR FIRST NATION

Claimants

v.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
(as represented by the Minister of Indian Affairs and Northern Development)

Respondent

and

STAR BLANKET FIRST NATION

Applicant

RESPONSE TO APPLICATION FOR LEAVE TO INTERVENE
Pursuant to Rule 35 of the
Specific Claims Tribunal Rules of Practice and Procedure

This Response is filed under the provisions of the *Specific Claims Tribunal Act* and the
Specific Claims Tribunal Rules of Practice and Procedure.

TO: The Claimants
As represented by David Knoll, of
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TO : Intervenor – Star Blanket First Nation
As represented by Aaron Starr of
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I. Intervenor (R. 45(a))

1. The participation of the proposed Intervenor, Star Blanket First Nation, will not add substance to the Claimants' position and may inadvertently complicate or confuse the process and add to the cost and length of the hearing.
2. The proposed Intervenor is a First Nation in Saskatchewan recognized as a Band under the *Indian Act* who has been provided with the Notice to Others issued by the Tribunal pursuant to section 22(1) of the *Specific Claims Tribunal Act* ("Act"). As such, Star Blanket First Nation may pursuant to section 25(1) of the *Act*, with leave of the Tribunal, intervene before it and make representations relevant to the proceedings regarding matters affecting them. Or the proposed Intervenor may, pursuant to section 24 of the *Act*, apply to the Tribunal for party status.
3. Star Blanket has brought an application pursuant to section 25(1) of the *Act* for Intervenor status. There is no basis for the participation of the proposed Intervenor as it will not add substantively to the position of the Claimants.
4. In exercising its discretion under section 25(1) the Tribunal is required to "consider all relevant factors, including the effect that granting intervenor status would have on the cost and length of the hearing."
5. The Crown submits that there is an alternate and better procedure open to Star Blanket First Nation contained in section 24 of the *Act*.

II. Manner of Participation and Assistance (R. 45(b))

(a) Interest of the proposed Intervenor

6. As noted, when exercising its discretion, section 25(2) of the *Act* requires that the Tribunal consider the effect that granting intervenor status would have on the cost and length of the hearing.

7. It is the Crown's position that the Tribunal may properly conclude that it should not grant the requested leave for Intervenor status.

(b) Manner of Participation

8. Paragraph 12 of the Application for Leave and Application for Intervenor Status states that the Star Blanket First Nation intends to "present legal arguments, evidence and the Applicant's unique perspective on the validity of the surrender of the Last Mountain Indian Reserve".
9. The proposed types and categories of evidence that the Application for Leave proposes the Star Blanket First Nation will provide to the Tribunal can be readily adduced by the Claimants in any event whether Star Blanket First Nation is permitted to intervene or not. Nothing prevents the Claimants from adducing before the Tribunal all the relevant evidence it wishes to present in an effort to prove its claim. As such, there is no prejudice to the Claimants if the relief sought is not granted.

III. Consent to Relief Sought (R. 34(b))

10. The Crown does not consent to the relief sought.
11. Should the Tribunal grant the relief sought, it is the Crown's position that directions should be provided which would specify the participation of Star Blanket First Nation, pursuant to Rule 46 of the *Specific Claims Rules of Practice and Procedure*.
12. It is the Crown's position that the participation of the proposed Intervenor should, by directions from the Tribunal, be limited to making "representations" only on the facts and issues properly before this Tribunal as contemplated under section 25(1) of the *Act*. These directions would stipulate, at a minimum, that those proposed Intervenor shall not:
 - a) call and examine witnesses, file Affidavit or related materials;
 - b) cross-examine witnesses including Affiants and experts;
 - c) raise new issues, enlarge the issues, supplement the evidentiary record or adduce further documentary, oral history, or other evidence; or,
 - d) deliver written or oral "representations" that address issues or facts not properly raised in the Claimant's Declaration of Claim.
13. In the event that the Tribunal grants the relief sought, whether now or at any future date, the Crown advises that it wishes to make submissions to the Tribunal, pursuant to Rule 46

of the *Specific Claims Tribunal Rules of Practice and Procedure* regarding the directions to be provided to the proposed Intervenors.

14. Furthermore, the Crown accepts no responsibility for any costs or legal fees associated with the proposed Intervenor's participation in this, or any, stage of the proceedings.

IV. Communication (R. 42(g))

15. Respondent's address for service of documents:

Department of Justice (Canada)
Prairies Regional Office (Saskatoon)
10th Floor, 123 – 2nd Avenue South
Saskatoon, SK S7K 7E6
Attention: Lauri M. Miller

16. Facsimile number address for service: (306) 975-6070

17. E-mail address for service: saskSCT-5001-13-kawaca@justice.gc.ca

Dated: November 13, 2013



Lauri M. Miller, Crown Counsel
Signature of Lawyer for the Respondent

William F. Pentney
Deputy Attorney General of Canada
Per: Lauri M. Miller
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