

FILE NO.: SCT-5001-13
DATE: 20131219

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)
)
KAWACATOOSE FIRST NATION,)
PASQUA FIRST NATION, PIAPOT) David Knoll, for the Claimants
FIRST NATION, MUSCOWPETUNG)
FIRST NATION, GEORGE GORDON)
FIRST NATION, MUSKOWEKWAN)
FIRST NATION AND DAY STAR FIRST)
NATION)
Claimants)
)
– and –)
)
HER MAJESTY THE QUEEN IN RIGHT)
OF CANADA) Lauri Miller, for the Respondent
As represented by the Minister of Indian)
Affairs and Northern Development)
)
Respondent)
)
– and –)
)
STAR BLANKET FIRST NATION)
Applicant) Aaron Starr, for the Applicant
)
)
– and –)
)
LITTLE BLACK BEAR FIRST NATION)
Applicant) Jamie Hammersmith, for the Applicant
)
)
– and –)
)
STANDING BUFFALO FIRST NATION)
Auditor) Mervin Phillips, for the Auditor
)
) **HEARD:** December 9, 2013

ENDORSEMENT

Honourable W.L. Whalen

[1] A Case Management Conference (CMC) was held in Regina, Saskatchewan, on December 9, 2013, at 9:45 A.M., Central Time (Regina), with Counsel and members of the various First Nations in attendance.

[2] After full discussion of the possibilities and options in respect of the status of the Applicants as potential Interveners or Parties, and the manner in which the Applications might proceed to resolution, Counsel requested time to confer and seek instructions. How the issue will proceed will be determined at the next CMC.

[3] Upon consent, the Claimants shall serve and file their Amended Declaration of Claim to include further allegations on or before January 15, 2014. The Respondent shall serve and file its Amended Response within the usual time prescribed by the *Rules*. The Claimants and Respondent shall serve their Amended Declaration of Claim and Amended Response to the Applicants, who may file Amended Applications within the usual time prescribed by the *Rules*.

[4] At the next CMC, the Parties shall be prepared to discuss the holding of a hearing in respect of the Applications of the Applicants, if necessary.

[5] Counsel for the Standing Buffalo First Nation informed the Tribunal and other counsel that as a Qu'Appelle Valley First Nation, his client believes it has a strong interest in the lands and claim in this proceeding. However, his client presently has an outstanding comprehensive claim seeking a number of grounds of relief (including in respect of IR No. 80A) before the Federal Court in Federal Court Action No. T-1616-11. According to the *Federal Courts Rules* and Section 15(3) of the *Specific Claims Tribunal Act*, Standing Buffalo First Nation cannot participate as a Claimant in both proceedings. Counsel for the Standing Buffalo First Nation indicated that his client has asked the Federal Court to exempt IR No. 80A from the Federal Court Action T-1616-11 so that the First Nation may seek status as an intervener or party in this proceeding. Counsel for the Standing Buffalo First Nation expects the question to be dealt with

in a CMC before the end of December, 2014. Counsel for Standing Buffalo First Nation undertook to keep other Counsel and the Registry informed of developments in this regard.

[6] The Respondent reported that it had produced all documents according to the minimum Department standard and the Claimants acknowledged receipt. The Respondent is currently investigating whether there are gaps in the documents already produced and will search for same. This process will not likely be completed before the end of March, 2014.

[7] Counsel have discussed the preparation of a Common Book of Documents and an Agreed Statement of Facts. They intend to cooperate in their preparation, however, this must await receipt of the Amended Declaration of Claim, the Amended Response, and the completion of research for further documents.

[8] Counsel have not considered whether bifurcation of the validity and compensation stages of the claim will be sought, but they will be prepared to discuss it at the next CMC.

[9] The Parties are not likely to engage experts on the validity issues but may do so on the compensation issues.

[10] The Claimants and at least one of the Applicants intend to call oral history evidence on the issue of validity. The development of this evidence and a protocol will be discussed at the next CMC.

[11] Counsel for the Claimants and Respondent indicated that there may be a settlement privilege issue that may require resolution by application and hearing. They will explore this issue and be prepared to discuss the path ahead at the next CMC.

[12] The Claimants would like the hearing of the claim to be held in the community. They shall attempt to reach a consensus on a suitable location. This will be discussed at the next CMC, including a process for resolving the question if they cannot agree.

[13] Counsel shall discuss and consider any ceremonial aspects of the hearing.

[14] Counsel agree that the interests of the Province of Saskatchewan will not be affected by this claim.

[15] The Parties and Applicants shall be prepared to discuss the issues stated in this endorsement at the next CMC, which will be held in late February or early March, 2014, at a date and time to be coordinated by the Registry.

W.L. WHALEN

Honourable W.L. Whalen
Specific Claims Tribunal Canada