

FILE NO.: SCT-7006-13

DATE: 20171108

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
TOOSEY INDIAN BAND)	
)	Kate Gunn, for the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	Deborah McIntosh and Fiona McFarlane, for
Affairs and Northern Development)	the Respondent
)	
)	
Respondent)	
)	
)	
)	
)	HEARD: October 11, 2017

ENDORSEMENT

Honourable Harry Slade, Chairperson

A Case Management Conference (CMC) was held in person on October 11, 2017, at 1:00 P.M., in Vancouver, British Columbia (Pacific Time).

[1] The Common Book of Documents was filed by the Respondent, on behalf of both Parties, on September 14, 2017. The Agreed Statement of Facts and the Agreed Statement of Issues continue to be worked on by the Parties, the former draft being with the Respondent since July

26, 2016. A draft of the latter was filed with the Tribunal on September 28, 2017. The Tribunal encouraged the Respondent to stand down for now on its raised issue over the lack of specificity on the alleged hazards and safety issues being framed by the Claimant in the draft Agreed Statement of Issues. The Claimant awaits the oral history evidence hearing and does not want to foreclose possible evidence of other hazards or safety issues which may still come forward.

[2] At the June 29, 2017 CMC, the Claimant confirmed that it will no longer carry out acoustic measurements in support of its expert appraisal report, and that the Claimant would provide an update to the Tribunal and the Respondent on the status of the report by mid-October 2017. The Claimant is now in the process of obtaining community feedback on the expert report which is substantively completed. It hopes to be able to produce the report to the Respondent by the end of November. On or before **October 31, 2017**, the Claimant shall provide an update to the Tribunal and Respondent on the expected delivery date of this report.

[3] The Respondent is waiting to see the Claimant's expert appraisal report before deciding on whether the Respondent will respond with its own report. Should the Respondent prepare a responding expert appraisal report, the Respondent is not required to respond to any loss of use assessment of the Claimant which depends on the taking for the forestry access road being determined as invalid or illegal, given the Bifurcation Order for this Claim issued by the Tribunal on October 30, 2015.

[4] On or before **October 31, 2017**, the Respondent shall advise the Claimant on the anticipated serving date of its geotechnical engineering report. The Respondent shall produce the report as soon as possible but may wait until after the productions of Will-Says by the Claimant in anticipation of the oral history evidence hearing. The Respondent might consider a supplementary expert report afterwards if relevant evidence emerges from this hearing.

[5] The Claimant confirmed that the oral history evidence hearing would require at least three days for testimony by 5-6 community witnesses. On or before **October 31, 2017**, the Parties shall advise the Tribunal on the following related matters:

- a. potential hearing dates in late November 2017 or early December 2017;
- b. Witness list; and

c. Timeline for the production of Will-Says.

[6] Within 30 days of the delivery date of the aforementioned initiating expert reports of the Parties, the Parties shall advise one another and the Tribunal on whether or not they will be filing responding expert reports in turn.

HARRY SLADE

Honourable Harry Slade, Chairperson