

FILE NO.: SCT-3002-16
DATE: 20170822

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
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NATION (INDIAN BAND) AND BIG)	Donald R. Colborne, for the Claimants
GRASSY (MISHKOSIIMIINIIZIIBING))	
FIRST NATION (INDIAN BAND))	
)	
)	
Claimants)	
)	
- and -)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	Lisa Cholosky, for the Respondent
As represented by the Minister of Indian)	
Affairs and Northern Development)	
)	
)	
Respondent)	
)	
)	
)	HEARD: July 6, 2017

ENDORSEMENT

Honourable Paul Mayer

A Case Management Conference (CMC) was held by teleconference on July 6, 2017, at 4:30 P.M., Eastern Time (Ottawa).

Potential Settlement Negotiations

[1] The Parties informed the Tribunal that they are now seriously considering settlement negotiations rather than Tribunal assisted mediation for this Claim.

[2] The Parties indicated that one of the advantages in pursuing negotiations for this Claim specifically is that the Respondent would use its negotiator who is involved in ongoing settlement negotiations for one of the Claimant's other specific claims ("flooding claim") as well as potentially the Claimant's "Windy Point" claim before the Tribunal (SCT-3001-16), working experiences which should help expedite the potential settlement of this Claim in due course.

[3] The Parties continue to agree that a joint forestry expert report for this Claim needs to be obtained before settlement negotiations or mediation may commence. The Parties are prepared to develop joint Terms of Reference for this report. The Respondent has agreed that the First Nation may retain the forestry expert with the Respondent reimbursing its share of the cost or the full cost, in order to minimize any delays in retaining the expert. However, the Respondent requires that the report remain subject to settlement privilege as a result.

Mediation

[4] The Parties reported that they had agreed on a final draft Mediation Agreement just before this CMC. However, the Mediation Agreement could not be signed until after August 1, 2017, when the Respondent's negotiator was to return from vacation. However, the prospect for settlement negotiations instead renders the filing of an executed Mediation Agreement unnecessary at this time.

[5] In the meantime, the Parties shall withdraw a draft Mediation Agreement filed on this Claim for the Tribunal's information mainly but prepared for another claim of one of the Claimants before the Tribunal (SCT-3002-11), which may enter into mediation in Fall of 2017 or later.

[6] Should mediation proceed instead, the Parties noted that the Respondent's negotiator would be the same individual as mentioned above.

Next Steps

[7] Initially, the next CMC was to be held together with the “Windy Point” claim SCT-3001-16 by teleconference on August 25, 2017, at 1:00 P.M., Eastern Time (Ottawa). However, the Parties’ respective CMC briefs filed on August 18, 2017, indicate that a further CMC in October of 2017 would be advised, at which point the Respondent will have already formally notified the Claimants in writing of the Minister’s decision on whether the Respondent is prepared to enter settlement negotiations for this Claim (the letter is expected to be delivered by mid-September, 2017).

[8] As such, and having considered the Parties’ progress made over the summer in drafting Joint Terms of Reference for the desired joint forestry expert report and ongoing work to decide who to retain based in part on availability, the Tribunal is satisfied with the direction of this Claim to date and believes that a CMC in early October of 2017 instead would be more beneficial.

[9] If either Party wishes to go forward with a CMC for this Claim on August 25, 2017, the Party should contact the Registry on or before **Wednesday, August 23, 2017**, to inform the Tribunal of this desire. Otherwise, the Parties shall contact the Registry shortly to schedule a CMC for a date in mid-October of 2017.

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Honourable Paul Mayer