

FILE NO.: SCT-7001-17
DATE: 20180926

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
KWAKIUTL)	
)	Christopher Devlin and Tanner Doerges, for
)	the Claimant
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	James M. Mackenzie, Deborah McIntosh
Affairs and Northern Development)	and Michael Mladen, for the Respondent
)	
)	
Respondent)	
)	
)	
)	
)	

ORDER

Honourable William Grist

Pursuant to Rule 10 of the *Specific Claims Tribunal Rules of Practice and Procedure*, SOR/2011-119, and upon the consent of the Parties, **THE TRIBUNAL ORDERS THAT:**

[1] The hearing of this Claim will proceed in two separate stages;

[2] The issues of validity and compensation will be bifurcated, and the Tribunal will first determine the validity of the Claim by holding a hearing and rendering its decision;

[3] For greater certainty, validity issues that will be dealt with at the first hearing include:

- a. whether, pursuant to paragraph 14(1)(a) of the *Specific Claims Tribunal Act*, SC 2008, c 22, there was a failure to fulfil a legal obligation of the Crown to provide lands or other assets under a treaty or another agreement between the First Nation and the Crown; and,
- b. whether any legal obligation of the Crown to provide lands under a treaty or another agreement between the First Nation and the Crown included an obligation to provide the subsurface of those lands.

[4] The second stage of this Claim pertaining to compensation, if necessary, will not begin until the validity of the Claim is decided;

[5] Once the second stage begins, a Case Management Conference will be scheduled to discuss the issue of damages and compensation including whether expert evidence will be required and the length of time required to reasonably prepare the case;

[6] Should one of the Parties seek judicial review of the Tribunal's decision on validity by the Federal Court of Appeal, that Party will provide notice to the Tribunal in writing of significant steps taken in the application for judicial review; and,

[7] Should one of the Parties seek leave to appeal the Federal Court of Appeal's decision to the Supreme Court of Canada, that Party will provide notice to the Tribunal in writing of significant steps in the leave to appeal, and any subsequent appeal.

WILLIAM GRIST

Honourable William Grist