

[2] The Respondent reported that it is still in the process of identifying and assembling documents for disclosure, including documents specifically requested by the Claimant. Late last June, the Respondent estimated that it would take 6 months to do so and it believes that is still an accurate time estimate (i.e. by the end of December 2013).

[3] The Respondent indicated that it is producing these documents on a “without prejudice” basis because some of the documents specifically requested may be subject to settlement privilege (arising from prior negotiations at the Ministerial level) or irrelevant. The Respondent wishes to maintain its rights in this regard. Once the documents have been produced and the Claimant has been able to review them, the question of whether an Application will be required to resolve questions of settlement privilege or other grounds of document production and admissibility will be clarified by counsel, hopefully at the next CMC. The ultimate objective is to produce a Common Book of Documents.

[4] The Claimant indicated that it will retain an expert and it is now in the process of doing so. The Respondent stated that it will therefore likely retain a responsive expert although counsel must seek instructions in that regard. Expert reports cannot likely be completed until after document disclosure is also complete. The Claimant hopes its expert will be engaged with Terms of Reference before the end of 2013. The Claimant indicated it would share the identity of its expert and Terms of Reference with the Respondent.

[5] The Claimant indicated that although documents will likely address most of the historical evidence, it will likely be necessary to have some oral evidence from elders. This may be capable of limitation if there is agreement on facts. The Claimant will likely seek to have the oral evidence led as soon as possible because the relevant elders are of advanced age and several have already passed away since the Claim has commenced. All aspects of this question should be addressed at the next CMC, including whether an Application will be necessary along with questions of timing and place if permitted prior to the liability hearing.

[6] The Claimant reported that it wished the liability hearing to take place in the community and it proposed two suitable locations with the preferred being the “Old Saipoyi School Gym” on the Blood Reserve, which is located in Southern Alberta about 215 km from the Calgary International Airport and 78.4 km from Lethbridge Alberta. The Respondent was agreeable to the liability hearing being held in the community and had no opposition to the Claimant’s preferred location, provided it accommodated the hearing’s needs. The Registry had some communications about the proposed location and it appeared suitable. It will work with the Parties to identify their specific needs as the hearing approaches. The Claimant indicated that a new building is under construction very nearby and may be ready by the time of the hearing.

[7] The next CMC will be held in early February 2014 at a time and date to be coordinated with the Parties by the Registry. The purpose of that CMC will be to report on the progress of the questions discussed two days ago.

W. L. WHALEN

Honourable W.L. Whalen
Specific Claims Tribunal Canada