

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

SHOAL LAKE #40 FIRST NATION

SPECIFIC CLAIMS TRIBUNAL		
TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES		
F I L E D	February 1, 2016	D É P O S É
David Burnside		
Ottawa, ON	21	

Claimant

v.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
As represented by the Minister of Indian Affairs and Northern Development

Respondent

-and-

ISKATEWIZAAGEGAN N0.39 INDEPENDENT FIRST NATION

Applicant

ISKATEWIZAAGEGAN NO. 39 INDEPENDENT FIRST NATION
REPLY TO CANADA'S RESPONSE TO APPLICATION FOR INTERVENOR
STATUS

OVERVIEW

1. As directed by the Tribunal, Canada provided its response to the Iskatewizaagegan No. 39 First Nation's (hereinafter the "Nation") Application to be added as an intervenor to Shoal Lake No. 40 First Nation's SCT-3001-14 claim (hereinafter "the Claim"), to which the Nation received leave to reply to Canada's response.
2. In reply, the Nation believes that as part of the reconciliation process between Canada and the Indigenous peoples within Canada, as a stated purpose within the *Specific Claims Tribunal Act*, the Nation's decision to participate in the Claim, in the manner it best determines should be respected as part of such a reconciliation process.
3. However, the Nation, having consulted with its members, including various Elders, has taken into consideration Canada's response and determined that in order to protect the Nation's best interests relating to the seven (7) Gardens Islands that are the subject of the Claim before the Specific Claims Tribunal, its best interest are better served in making an application for party status for the reasons below.

REASONS

4. Although the seven (7) Garden Islands have been identified as being held in common with the Shoal Lake #40 First Nation, the Nation, upon consultation with its members, including Elders, maintains that its views, aspirations and expectations regarding these seven (7) Garden Islands, and the compensation owing, will be different than that of the Shoal Lake #40 First Nation.
5. Although the Nation had originally decided to participate within the Claim as an intervenor in order to provide its perspective regarding the issues contained therein, at the time it shared the Specific Claims Tribunal Chairperson's concerns as contained

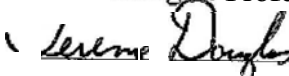
within his 2014 Annual Report, specifically given the perceived lack of independence of the Specific Claims Tribunal, and its under resourced status after six (6) years of existence, that the purpose and ability to justly meet its mandate would fail

6. However, given the Canadian government's articulation of a proposed renewal of its relationship with First Nations on a nation-to-nation basis, based in part on the respect of the treaty relationship, the Nation takes the Canadian government's articulation *prima facie* and has decided to change its original position to participate as an intervenor.
7. The Nation wishes to be clear that in participating in the Specific Claims Tribunal process within this above-noted context, it believes that it is necessary to fully lead its own issues, evidence and arguments to meet its views, aspirations and expectations regarding the seven (7) Garden Islands, which will likely differ from that of Shoal Lake #40 First Nation.
8. The Nation submits that, as noted in Canada's response to the Nation's application for intervenor status in the Claim, although it may have rights, interests, concerns and issues similar to that of the Shoal Lake #40 First Nation directly related to the seven (7) Garden Islands, the Nation has different perspectives and understandings regarding such rights, interests, concerns and issues and accordingly it is best to have status as a party in the Claim to assert and articulate them.
9. Further, although the Nation fully believes that it's determination as to the manner in which it wishes to assert and articulate its rights should be respected, upon further consideration the Nation feels that it is necessary, in order to fully present its assertions regarding its rights, interests, concerns and issues regarding the seven (7)

Garden Islands, is also best done as a party in the Claim.

10. For these reasons, the Nation's reply to Canada's response is that although it believes that in the spirit of reconciliation the Nation's decision to participate in the Specific Claims Tribunal process for the Claim should be respected, that in consideration of Canada's response, and in consultation with Nation members, including Elders, it would be in the Nation's best interests to request and make an application for leave to be added as a party to the Claim.

Dated at the City of Kenora in the Province of Ontario this 29th day of January, 2016.

Per Terence Douglas Professional Corporation

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