

FILE NO.: SCT-5001-16
DATE: 20181107

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
KEESEEKOOSE FIRST NATION)	
)	Ron S. Maurice, Steven W. Carey and Amy
)	Barrington, for the Claimant
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	Donna Harris, Jenilee Guebert and Taylor
Affairs and Northern Development)	Andreas, for the Respondent
)	
)	
Respondent)	
)	
)	
)	
)	

ORDER

Honourable Harry Slade, Chairperson

WHEREAS the Parties have reached agreement on the validity phase of this specific Claim and do not require a hearing;

AND WHEREAS the Parties have filed an Agreement on Validity Phase dated October 30, 2018, and have consented to an Order for the resolution of all issues of validity of the Claim as follows:

1. Canada admits a breach of its pre-surrender fiduciary obligation to the Claimant in relation to the 1909 surrender of lands from Indian Reserve No. 66, rendering the Claim valid under subsection 14(1) of the *Specific Claims Tribunal Act (Act)*.
2. The Claimant agrees the following remaining allegations are withdrawn:
 - a. the surrender was contrary to the provisions of the 1906 *Indian Act*;
 - b. the Crown committed fraud;
 - c. the Crown committed equitable fraud; and,
 - d. the Crown breached a fiduciary duty to the Claimant following the surrender by allowing the surrendered lands to be sold for less than fair market value, failing to properly account for the full sale proceeds from the surrender, and failing to properly manage the First Nation's trust monies.
3. The Parties agree that the criterion for awarding compensation in the within Claim is that found under paragraph 20(1)(g) of the *Act*, namely the current unimproved market value of the lands.
4. The Parties agree compensation for any demonstrable loss of use should be calculated pursuant to paragraph 20(1)(h) of the *Act*.
5. The Parties agree that a set-off should be deducted, pursuant to subsection 20(3) of the *Act*, reflecting monies received by the Claimant, brought forward to current value.

THE TRIBUNAL ORDERS, BY CONSENT:

- [1] That the Claim is found valid on the basis set out in paragraph 1 above, and;
- [2] That the grounds for the Claim set out in paragraph 2 above are dismissed, and;
- [3] Compensation will be determined on the basis set out in paragraphs 3, 4 and 5 above, and;

[4] The resolution of issues of validity and principles governing compensation are made as if upon a full hearing of the Claim at the validity phase of the proceeding and a decision of the Tribunal on the merits, and;

[5] The remaining terms of the Parties agreement on the validity phase of the Claim, as set out in Attachment 1 to this Order are acknowledged as in effect.

HARRY SLADE

Honourable Harry Slade, Chairperson

ATTACHMENT 1

FILE NO.: SCT-5001-16

DATE:

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

KEESEEKOOSE FIRST NATION

Claimant

- and -

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

Respondent

CONSENT ORDER

Honourable Harry Slade, Chairperson

WHEREAS the parties have reached agreement on the validity phase of this specific claim and do not require a hearing.

AND WHEREAS the parties have filed an Agreement on Validity Phase dated October 30, 2018, the particulars of which are as follows:

1. In the spirit of achieving reconciliation, Canada admits a breach of its pre-surrender fiduciary obligation to the Claimant in relation to the 1909 surrender of lands from Indian Reserve No. 66, rendering the Claim valid under subsection 14(1) of the *Specific Claims Act (Act)*.
2. The Claimant agrees the following remaining allegations will be withdrawn:
 - a. the surrender was contrary to the provisions of the 1906 *Indian Act*;
 - b. the Crown committed fraud;

- c. the Crown committed equitable fraud; and
 - d. the Crown breached a fiduciary duty to the Claimant following the surrender by allowing the surrendered lands to be sold for less than fair market value, failing to properly account for the full sale proceeds from the surrender, and failing to properly manage the First Nation's trust monies.
3. In light of Canada's admission set out in paragraph 1 and the Claimant's withdrawals set out in paragraph 2, there are no outstanding validity issues and neither a hearing nor decision on validity is required.
4. The parties agree that the criterion for awarding compensation in the within claim is that found under paragraph 20(1)(g) of the *Act*, namely the current unimproved market value of the lands.
5. The parties agree compensation for any demonstrable loss of use should be calculated pursuant to paragraph 20(1)(h) of the *Act*.
6. The parties agree that a set-off should be deducted, pursuant to subsection 20(3) of the *Act*, reflecting monies received by the Claimant, brought forward to current value.
7. The parties agree to work together to discuss next steps on compensation, including necessary expert reports, meetings and options for alternative dispute resolution.
8. The parties reserve the right to conduct examination in chief and cross-examination of the expert witnesses, and rely on any other evidence before the Tribunal only to the extent that the evidence is relevant to compensation.
9. Canada's admission in paragraph 1 pertains to the within claim only and is not to be construed as an admission of liability or facts with respect to any other matters now, or in the future, before the Tribunal.

THE TRIBUNAL ORDERS THAT:

1. A hearing on the validity phase of the claim is not necessary; and
2. The expert evidence hearing scheduled for November 13-16, 2018 is cancelled.

Honourable Harry Slade, Chairperson

Consented to on behalf of the Claimant this 5TH day of November, 2018.

Steve Carey and Amy Barrington
Counsel for the Claimant
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Consented to on behalf of the Respondent this 5th day of November, 2018.

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