

F I L E D	SPECIFIC CLAIMS TRIBUNAL TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES <b>May 8, 2015</b> Nicholas Young	D E P O S E
Ottawa, ON	<b>90</b>	

**SPECIFIC CLAIMS TRIBUNAL**

**BETWEEN:**

**KAWACATOOSE FIRST NATION, PASQUA FIRST NATION,  
 PIAPOT FIRST NATION, MUSCOWPETUNG FIRST NATION,  
 GEORGE GORDON FIRST NATION, MUSKOWEKWAN FIRST NATION  
 and DAY STAR FIRST NATION**

CLAIMANTS

AND:

**LITTLE BLACK BEAR FIRST NATION**

CLAIMANT

AND:

**STAR BLANKET FIRST NATION**

CLAIMANT

AND:

**STANDING BUFFALO DAKOTA FIRST NATION**

CLAIMANT

AND:

**PEEPEEKISIS FIRST NATION**

CLAIMANT

AND:

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

RESPONDENT

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**RESPONSE TO CLAIMANTS' APPLICATION TO ADMIT DOCUMENTS AND  
 FOR A DECLARATION THAT CERTAIN ALLEGATIONS BE CONTINUED  
 UNDER THE SPECIFIC CLAIMS PROCESS**  
**Pursuant to Rules 35 & 59 of the**  
*Specific Claims Tribunal Rules of Practice and Procedure*

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The Respondent provides the following Response to the Claimants' Application submitted April 21, 2015:

1. The Respondent claims that the subject documents are communications produced during the course of settlement negotiations within the alternative dispute resolution process under the *Specific Claims Policy*. As such, they are subject to exclusion from the Tribunal process based upon settlement privilege.
2. Settlement privilege applies because:
  - a. The Applicant and Canada contemplated litigation at the time of the preparation of the documents;
  - b. The documents in issue were created and produced for the purpose of furthering settlement discussions;
  - c. The parties had no intention to disclose the communications in the event negotiations failed.
3. The documents are not relevant to the matters in issue before the Tribunal.
4. The discontinuance of a specific claim governed by Section 37(a) of the *Specific Claims Tribunal Act* is not an exhaustive list. Also, it refers to specific claims filed with the Specific Claims Tribunal and not specific claims filed with the Minister of Aboriginal Affairs and Northern Development under the *Specific Claims Policy*.
5. Where a First Nation chooses to proceed to the Tribunal, it is a valid decision by Canada to choose not to proceed with negotiations. The Respondent relies on Rule 59 of the *Specific Claims Tribunal Rules of Practice and Procedure* regarding the claim of settlement privilege.
6. The Specific Claims Tribunal does not have jurisdiction to declare that parts of a specific claim accepted by the Minister for negotiation should not be discontinued as a specific claim under the Policy.

The Respondent respectfully requests the following relief:

- a. That the Tribunal dismiss the within Application in its entirety.

Dated this 8th day of May, 2015.



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**Lauri M. Miller, Crown Counsel**

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