

FILE NO.: SCT-7002-13
DATE: 20190205

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
METLAKATLA INDIAN BAND)	
)	Michael Bissonnette and Brenda Gaertner,
)	for the Claimant
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	John Russell and Michael Mladen, for the
Affairs and Northern Development)	Respondent
)	
)	
Respondent)	
)	
)	
)	
)	HEARD: January 17, 2019

ENDORSEMENT

Honourable William Grist

A Case Management Conference (CMC) was held by teleconference on January 17, 2019, at 1:00 P.M., Eastern Time (Ottawa).

[1] The Parties sought a Bifurcation Order to enhance cost efficiency. The Tribunal issued the Bifurcation Order proposed by the Parties on January 18, 2019.

[2] The Direction of January 4, 2019, states that the Respondent will serve and file its Responding Expert Valuation Report on or before **July 30, 2019**. The Respondent reported that its expert cannot complete the report as planned due to retirement. The Respondent has identified a new expert to complete the report who is available pending completion of the Respondent's contracting process. The Respondent had been instructed that the contract approval would not occur until the new fiscal year. The Respondent was unable to give an estimated timeline for the approval of the new contract. The Respondent estimated that once under contract, the new expert will require six months to complete the report.

[3] The Claimant expressed deep concerns about delays and noted that the scope of work and the funds required for the contract for the retiring expert had already been approved. The Claimant emphasized that the Tribunal had established a schedule in the July 11, 2018, Endorsement, with a one month adjustment having been made in the Direction of January 4, 2019.

[4] The Respondent will provide status updates to the Claimant and the Tribunal in writing when each of the following has occurred. Each item described in the subparagraphs below triggers a separate status update:

- a. The Respondent's Counsel has received instructions regarding retaining the new expert from the Litigation Management and Resolution Branch;
- b. The Respondent has delivered a contract proposal to the new expert;
- c. The Respondent has received a response from the new expert and quote for service; and,
- d. The Respondent has delivered all necessary materials to the funding body for approval.

[5] The Respondent's Counsel will request notification of the events in paragraph 4 from the appropriate individuals within the Government of Canada, as required.

[6] The Tribunal emphasized that this change with respect to the Respondent's expert was an unfortunate development and strenuous efforts by the Respondent to engage a new expert as quickly as possible are appropriate.

[7] The Claimant reported that it does not anticipate calling oral history evidence during the validity stage but cannot confirm at this time whether it will do so. The Claimant reserves the right to call oral history evidence during the compensation stage, if required. The Tribunal noted Rule 83 of the *Specific Claims Tribunal Rules of Practice and Procedure*, SOR/2011-119.

[8] The remaining items for discussion at the CMC held January 17, 2019, were adjourned to the next CMC. The following will be addressed at the next CMC:

- a. The status of the Respondent's Expert Valuation Report;
- b. Progress on the Common Book of Documents, which is to be finalized and filed on or before **October 30, 2019**;
- c. Whether the Respondent will seek to amend its Response to the Declaration of Claim in light of its Expert Surveyor Report;
- d. Whether the Claimant intends to bring oral history evidence during the validity stage, and if so, the schedule for Will-Says and the oral history evidence hearing;
- e. Dates for the expert evidence hearing to be held in Vancouver, British Columbia, which has been proposed by the Claimant for late November or early December of 2019; and,
- f. Dates and the location for oral submissions hearing on validity, which has been proposed by the Claimant for some time in the first three months of 2020.

[9] The next CMC will be held as soon as schedules allow after April 30, 2019. The Registry will contact that Parties regarding their preferred date and time for the next CMC.

WILLIAM GRIST

Honourable William Grist