

FILE NO.: SCT-7001-12
CITATION: 2016 SCTC 11
DATE: 20160727

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
TSLEIL-WAUTUTH NATION)	
)	Stan H. Ashcroft, for the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT OF CANADA)	
As represented by the Minister of Indian Affairs and Northern Development)	James M. Mackenzie, Deborah McIntosh, Anusha Aruliah and Erin Tully, for the Respondent
)	
Respondent)	
)	
)	
– and –)	
)	
LEQ’A:MEL FIRST NATION)	
)	Jennifer Griffith and Amy Jo Scherman, for the Intervenor
Intervenor)	
)	
)	
)	
)	
)	

CORRIGENDUM TO REASONS FOR DECISION

Honourable W.L. Whalen

[1] This is a Corrigendum to my Reasons for Decision dated June 30, 2016 (2016 SCTC 11).

[2] The second sentence of paragraph 11 of the Reasons for Decision has been corrected as follows:

As a result, 7.73 acres were transferred from the Reserve to the Province.

[3] The third sentence of paragraph 18 of the Reasons for Decision has been corrected as follows:

The Tribunal will refer to the higher-value land as “industrial” or “industrial use” and the lower-value land as “residential upland.”

[4] The first sentence of paragraph 23 of the Reasons for Decision has been corrected as follows:

IR 3 consisted of approximately 275 acres of land, including the 4.65 acres taken by the District of North Vancouver for a road that was never built.

[5] The second sentence of paragraph 24 has been deleted and the ninth sentence of the Reasons for Decision has been corrected as follows:

The light grey band of land in the diagram along the shoreline is “Industrial District” for industrial uses.

[6] The second sentence of paragraph 37 of the Reasons for Decision has been corrected as follows:

The land on the Reserve beneath this line would be for industrial use and the land above it would be for residential upland use.

[7] The fourth and fifth sentence of paragraph 44 of the Reasons for Decision have been deleted.

[8] Paragraph 53 of the Reasons for Decision has been deleted.

[9] Paragraph 55 of the Reasons for Decision has been corrected as follows:

In terms of local industry, DRC described the main industry in the area between 1900 and 1931 as forestry. Two sawmills were located not far from the Reserve. Both had shut down a year or two earlier. One would start up again in 1932. Sand and gravel operations were underway, however, and shipbuilding was just starting up. It also described the failure of several real estate projects in areas to the north, northwest and northeast of IR 3, the same areas subject to active land speculation in the 1920s and extensive tax-forfeiting before and after the beginning of the Depression. Overall, demand and prices were failing at the effective date due to the Depression and there was a significant rise in property forfeiture for tax reasons.

[10] The first sentence of paragraph 56 of the Reasons for Decision has been corrected as follows:

DRC also went into greater detail about the physical features of IR 3 than KM had done.

[11] The first sentence of paragraph 62 of the Reasons for Decision has been corrected as follows:

Mr. Peebles concluded that the HBU before the taking involved leaving the settlement and cemetery where they were, and that the east half of the Reserve could not be developed for industrial use.

[12] The third sentence of paragraph 73 of the Reasons for Decision has been corrected as follows:

A current aerial photo of IR 3 on page 44 of the KM Report depicts the Reserve, and by appearances seems to present a “gentle slope” with mountains in the background.

[13] The first and sixth sentence of paragraph 79 of the Reasons for Decision have been corrected as follows:

Mr. Smirl justified the lot depth of 1,200 feet on the eastern side by pointing to several waterfront lots: Block H, for example, was 773 feet deep on its eastern edge, and Block G was up to 1,000 feet deep where the land formed a point.

There was no confining road system on the Reserve to confine land use in this way.

[14] The second sentence of paragraph 84 of the Reasons for Decision has been corrected as follows:

The Claimant also submitted that it had caused DRC to subdivide the higher value area into one or two acre lots, which had the effect of undervaluing industrial quality land in the south-west part of the Reserve (because smaller parcels usually attracted higher values).

[15] Paragraph 88 of the Reasons for Decision has been corrected as follows:

It is worth repeating Mr. Smirl's testimony in chief, where he referred to the challenge of finding reliable comparables:

[16] The third sentence of paragraph 116 of the Reasons for Decision has been corrected as follows:

However, he said that it was not done in practice in partial taking situations:

W.L. WHALEN

Honourable W.L. Whalen