

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

SPECIFIC CLAIMS TRIBUNAL		
TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES		
F I L E D	October 28, 2013	D É P O S É
Amy Clark		
Ottawa, ON	9	

**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 -

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

RESPONDENT

- and -

STAR BLANKET FIRST NATION,

APPLICANT

APPLICATION FOR LEAVE and APPLICATION FOR INTERVENOR STATUS
Pursuant to Rules 29, 30, 34 and 45 of the
Specific Claims Tribunal Rules of Practice and Procedure
and Section 25 of the *Specific Claims Tribunal Act*

TO: KAWACATOOSE FIRST NATION, PASQUA FIRST NATION, PIAPOT FIRST
NATION, MUSCOWPETUNG FIRST NATION, GEORGE GORDON FIRST NATION,
MUSKOWEKWAN FIRST NATION, AND DAY STAR FIRST NATION

As represented by David Knoll

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AND TO: HER MAJESTY THE QUEEN IN RIGHT OF CANADA

As represented by Lauri Miller

Department of Justice

Prairie Region (Saskatoon)

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APPLICATION FOR LEAVE and APPLICATION FOR INTERVENOR
STATUS

I. RELIEF SOUGHT (Rule 34 (a))

TAKE NOTICE that an application will be made on behalf of the Applicant, STAR BLANKET FIRST NATION, before the Specific Claims Tribunal (the “Tribunal”), at a time and place to be determined by the Tribunal, for the following relief:

- (a) An Order for leave of the Tribunal to bring an application; and
- (b) An Order that the Applicant be granted intervenor status in the within action.

II. GROUNDS (Rule 34 (b))

TAKE NOTICE that this Application is brought on the following grounds:

1. The Declaration of Claim in *Kawacatoose First Nation et al. v. Her Majesty the Queen in Right of Canada* (SCT – 5001-13), filed on June 20, 2013 asserts Canada’s breach of its fiduciary obligations in relation to the alleged illegal surrender of approximately 1,408 acres of Last Mountain Indian Reserve (IR) 80A (the “Last Mountain Indian Reserve”) in 1918. The Declaration of Claim also asserts that the Surrender was not obtained in compliance with the surrender provisions of the *Indian Act*, RSC 1906, c81, or the terms of Treaty No. 4.
2. The Applicant claims it was a party to the original claim submission to the Minister of Aboriginal Affairs and Northern Development Canada. Although certain parts of the claim were accepted for negotiation, the Respondent did not agree to negotiate with the Applicant because in the Respondent’s view, the Applicant was not a proper beneficiary or did not have an interest in the Last Mountain Indian Reserve.
3. The Applicant disputes the Respondent’s view that the Applicant is not a proper beneficiary or does not have an interest in the within action. The Applicant claims that Treaty No. 4 contemplated the setting aside of reserve land for the various First Nations which resided in the Treaty No. 4 area. In certain instances, essential resources were not found on First Nation resident reserves and, as a consequence, additional lands were set aside for relevant First Nations.

The Last Mountain Indian Reserve was selected as a suitable site for a Fishing Station.

The Applicant claims that its members commuted to the Last Mountain Indian Reserve and used the location as an essential resource for fishing.

4. The Applicant further claims that although the Order in Council 1151 states that the Last Mountain Indian Reserve was set apart for the use of the Touchwood Hills and Qu'Appelle Valley Indians neither the survey nor the Order in Council identified the individual bands that had an interest in the reserve. The Applicant claims that there are historical documents that suggest that the location of the Fishing Station indicates that the Applicant was intended to be included in the term "Qu'Appelle Valley Indians" and/or that the Applicant had an interest in the Last Mountain Indian Reserve.

5. On August 20, 2013, the Applicant requested that notice be given to it pursuant to section (s.) 22 of the *Specific Claims Tribunal Act* (the "Act").

6. On August 29, 2013, the Tribunal provided the Applicant with notice pursuant to section 22 of the Act indicating that a decision in this matter may, in the opinion of the Tribunal, significantly affect the legal interests of the Applicant.

7. The Applicant has a direct interest in the subject matter and outcome of this action and therefore the Tribunal should grant leave to the Applicant to intervene in the within action.

8. The Applicant relies on Rules 29, 30, 34 and 45 of the *Specific Claims Tribunal Rules of Practice and Procedure* and on section 25 of the Act to grant the relief requested.

III. CONSENT (Rule 34(b))

9. The Claimants have been in discussion with the Applicant but have not confirmed any consent to the Relief Sought.

10. The Respondent has not consented to the Relief Sought.

IV. IDENTIFICATION (Rule 45)

11. The name, address, and telephone number of the Applicant and their representative are as follows:

Star Blanket First Nation
c/o McKercher LLP
Barristers and Solicitors
374 Third Avenue South
Saskatoon, SK S7K 1M5
Telephone: (306) 653-2000

12. In order to limit the costs associated with its application for leave to intervene, the Applicant proposes to submit a Memorandum of Fact and Law. If the Applicant is granted intervenor status it intends to present legal arguments, evidence and the Applicant's unique perspective on the validity of the surrender of the Last Mountain Indian Reserve.

13. The Applicant intends to support the Claimant's position with respect to the validity of the surrender of the Last Mountain Indian Reserve.

14. The Applicant intends to use the English language in these proceedings.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 28 day of October, 2013.

McKERCHER LLP

Per: 

Aaron Starr, Counsel for the Applicant

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