

SPECIFIC CLAIMS TRIBUNAL

B E T W E E N:

HALALT FIRST NATION

SPECIFIC CLAIMS TRIBUNAL		
F	TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES	D
I	July 7, 2014	E
L	Guillaume Phaneuf	P
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Ottawa, ON		28

Claimant

v.

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

Respondent

APPLICATION TO AMEND DECLARATION OF CLAIM
Pursuant to Rules 5, 29 and 34 of the
Specific Claims Tribunal Rules of Practice and Procedure

This application is made on behalf of the Claimant pursuant to the provisions of the *Specific Claims Tribunal Act* and the *Specific Claims Tribunal Rules of Practice and Procedure*.

By: HALALT FIRST NATION
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To: HER MAJESTY THE QUEEN IN RIGHT OF CANADA
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I. Relief Sought (R. 34(a))

1. The applicant seeks an Order permitting the Claimant First Nation to further amend the Amended Declaration of Claim that was filed on March 31, 2014 per proposed Further Amended Declaration of Claim (the “Amendments”) attached to this application.

II. Grounds for the Application (R. 34(a))

Factual Basis

2. In its Amended Declaration of Claim filed March 31, 2014, Halalt First Nation (“Halalt”) asserted breaches of legal obligation by the Crown in relation to removal of the Crofton Spur lands from Halalt Reserve No. 2 (“Reserve”), and sought compensation for the removal of the Crofton Spur lands, including compensation for the loss of use of those lands.
3. Leave to apply to amend the Declaration of Claim was granted by the presiding Tribunal member Hon. Justice Harry Slade on June 25, 2014 (Rule 30).
4. The Claimant seeks to amend its Claim as it relates to the Crofton Spur. The Amendments involve events that occurred between 1987 and 1993 regarding the abandonment of the Crofton Spur and the potential return of the Crofton Spur to the Reserve.
5. Canada has had notice of the facts contained in the Amendments since they arose. Between 1987 and 1993, Canada either authored or received from Halalt documents containing facts that inform the Amendments, and participated in meetings with Halalt regarding the Crofton Spur.
6. In the context of the Tribunal process, Canada was made aware of the facts contained in the Amendments on March 10, May 7, May 23, and June 24 2014.
7. The Claimant is not filing a new Claim, nor seeking relief outside of the jurisdiction of the Tribunal.

Legal Basis

8. Due to the finality of the Tribunal’s decision pursuant to s. 34(2) of the *Specific Claims Tribunal Act* barring future proceedings on the same or substantially the same facts, the application to amend is sought in the interests of fairness and justice.
9. Halalt relies upon the *Interpretation Act*, R.S.C., 1985, c. I-21, including but not limited to sections 12 and 13.

10. Halalt relies upon the *Specific Claims Tribunal Act* S.C. 2008, c. 22 in its entirety.
11. The *Specific Claims Tribunal Rules of Practice and Procedure* SOR/2011-119 do not address applications to amend pleadings. Rule 5 states:

The Tribunal may provide for any matter of practice or procedure not provided for in these Rules by analogy to the *Federal Courts Rules*.
12. Halalt relies upon the *Federal Court Rules*, SOR/98-106 including but not limited to Rules 75 and 201.
13. Halalt relies upon the common law regarding fiduciary duty and statutory interpretation.

III. Consent (R. 34(b))

14. The Respondent does not consent to the relief sought.

IV. Material in Support

15. This Application will be supported by the following material:
 - a. Proposed Further Amended Declaration of Claim;
 - b. Affidavit # 1 of Barbara Barber;
 - c. The pleadings and proceedings to date;
 - d. The Claimant's Memorandum of Fact and Law; and
 - e. Such further and other material as counsel may advise and the Tribunal permit.

Dated this 7th day of July, 2014.



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