

FILE NO.: SCT-3002-11

DATE: 20150422

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
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BIG GRASSY)	
(MISHKOSIIMIINIIZIIBING) FIRST)	Donald Colborne, for the Claimant
NATION (INDIAN BAND))	
)	
)	
Claimant)	
)	
- and -)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	Jeff Echols and Lisa Cholosky, for the
OF CANADA)	Respondent
As represented by the Minister of Indian)	
Affairs and Northern Development)	
)	
)	
Respondent)	
)	
)	HEARD: April 20, 2015

ENDORSEMENT

Honourable W.L. Whalen

A Case Management Conference (CMC) was held by teleconference on April 20, 2015, at 11:00 A.M. Eastern Time (Ottawa).

[1] The Parties reported that the Agreed Statement of Facts, Agreed Statement of Issues and Common Book of Documents are underway but cannot be finalized until completion and delivery of Experts' Reports and completion of Discovery for Particulars.

[2] The Parties confirmed that they are close to agreement on an amendment of pleadings and are hopeful they can resolve a few outstanding questions on their own.

[3] The Claimant's expert report on materials ("the Balkwill Report") has been delivered. The Respondent indicated it intended to obtain a responding report. A time line was not available at this time. The Respondent stated that it has concerns that the report by Mr. Balkwill was not in full compliance with Rule 88 of the *Specific Claims Tribunal Rules of Practice and Procedure* ["the Tribunal Rules"]. Counsel believed they could resolve this question on their own.

[4] The Claimant reported that the report of its historical advisor ("the Holzkamm Report") is near completion and should be delivered within the next few weeks. The Respondent expects it will engage a responding expert.

[5] The Claimant reported that it has engaged an expert to prepare a compensation carry forward report, which it expects to receive in the near future.

[6] The Parties remain divided on the question of bifurcation. The Respondent prefers a separate validity hearing that will also find a historical value if there is a finding of validity. Carry forward of historical value would then be done in the second phase if necessary and experts would then be engaged. Given the nature of the dispute, and to save time and money, the Claimant prefers that there be one hearing dealing with validity, historical value and carry forward. The Respondent wishes to review the Claimant's report before making a decision to apply for bifurcation if necessary. The Parties are encouraged to discuss this question further with a view to resolution short of a formal application.

[7] The Parties have agreed that the Respondent's request for particulars will be dealt with by discovery in the form of written interrogatories under Tribunal *Rules* 60(1)(a), 73, 74 and 75. The Respondent will file an Application in writing on or before **May 15, 2015**, setting out yet to be agreed timelines for the submission of questions and response and endeavouring to complete this discovery before the next CMC. The Tribunal will deal with the matter on a consent basis if

the Claimant files its consent. The Claimant reserved the right to seek particulars through the same process when it has received the Respondent's expert reports.

[8] The Claimant has identified three proposed oral history witnesses and delivered "Will-Say" statements stating anticipated evidence. The Respondent confirmed its request for an advance hearing to receive the evidence of those witnesses in order to know the case it must meet and thereby also facilitate preparations for final hearings. The Claimant does not agree as stated at paragraph 6 of the Endorsement dated January 28, 2015. The Parties will discuss this further, including agreement on an oral history protocol, and these questions will be reviewed at the next CMC.

[9] The next CMC will be held by teleconference on **September 8, 2015**, at 2:00 P.M. Eastern Time (Ottawa).

W.L. WHALEN

Honourable W.L. Whalen