

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

BEARDY’S & OKEMASIS BAND #96 AND #97

SPECIFIC CLAIMS TRIBUNAL	
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES	
F I L E D	D E P O S E
August 28, 2014	
Amy Clark	
Ottawa, ON	154

Claimant

- and -

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

Respondent

- and -

**JAMES SMITH CREE NATION ON BEHALF OF THE
CHAKASTAYPASIN BAND OF THE CREE NATION,
LITTLE PINE FIRST NATION, LUCKY MAN FIRST NATION,
MOOSOMIN FIRST NATION, MOSQUITO GRIZZLY
BEAR’S HEAD LEAN MAN FIRST NATION,
MUSKEG LAKE CREE NATION, ONE ARROW FIRST NATION,
ONION LAKE CREE NATION, POUNDMAKER CREE NATION,
RED PHEASANT FIRST NATION, SWEETGRASS CREE NATION,
YOUNG CHIPPEWAYAN FIRST NATION,
THUNDERCHILD FIRST NATION**

Intervenors

- and -

PREMIÈRE NATION DES ATIKAMEKW D’OPITCIWAN

Intervenor

**Application of the Respondent pursuant to Rules 29 and 30
of the *Specific Claims Tribunal Rules of Practice and Procedure***

TO: **Beardy’s & Okemasis Band #96 and #97**
As represented by Ron S. Maurice, of
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TAKE NOTICE THAT the Deputy Attorney General of Canada, on behalf of the Minister of Aboriginal Affairs and Northern Development Canada, pursuant to Rules 29 and 30 of the *Specific Claims Tribunal Rules of Practice and Procedure* (the *Rules*) will make an application for leave to bring an application to strike new documents filed by the Claimant and any reference to the new documents in the Memorandum of Fact and Law of the Claimant.

I. RELIEF SOUGHT

An Order granting leave to the Respondent to make the within application and an Order striking the undisclosed documents filed by the Claimant on June 19, 2014 and all references to those documents in the Memorandum of Fact and Law of the Claimant dated June 19, 2014.

II. GROUNDS

The grounds of this application are:

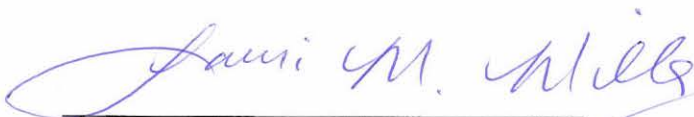
1. The evidentiary hearing of this Specific Claim by the Specific Claims Tribunal occurred on June 12 and 13, 2013 and March 10 to 14, 2014. The Claimant and Respondent introduced the evidence of their respective witnesses on those dates. As well, the reports of the respective expert witnesses were filed as exhibits.
2. Prior to the March 2014 hearing, the parties filed Books of Documents at the Tribunal.
3. On June 3, 2014, the Honourable Harry Slade issued a Direction that the parties prepare a common book of documents over which there is no issue of admissibility. He provided further instructions on an agreement regarding the use of the documents and how to proceed if one party contested admissibility of documents for a ruling on admissibility.

4. On June 19, 2014 the Claimant filed a further Claimant Book of Documents without agreement of the Respondent and without compliance with the Honourable Harry Slade's Direction.
5. The Claimant Book of Documents filed on June 19, 2014 included documents that had not previously been disclosed to the Respondent and did not notify the Respondent of the same.
6. The Claimant is splitting its case which is prejudicial to the Respondent and against the rule of reply evidence. The Respondent is entitled to know the case it has to meet. The Respondent has had no opportunity to adduce its own evidence with respect to the new documents filed by the Claimant.
7. Rule 5 of the Rules provides that the Tribunal may provide for any matter of practice or procedure not provided for in the Rules by analogy to the *Federal Courts Rules*. Rule 274(1) of the *Federal Courts Rules* sets out the order of presentation of evidence at a trial and this has not been followed.

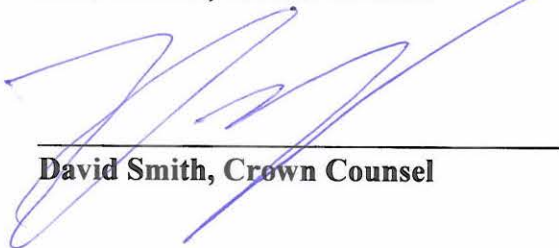
III. RELIEF SOUGHT

8. The Respondent respectfully requests that the Tribunal order that the documents filed by the Claimant on June 19, 2014 and all references to those documents in the Memorandum of Fact and Law of the Claimant dated June 19, 2014 be struck.

Dated this 22nd day of August, 2014.



Lauri Miller, Crown Counsel



David Smith, Crown Counsel

William F. Pentney

Deputy Attorney General of Canada

Per: Lauri Miller and David Smith

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