

FILE NO.: SCT-5004-11
DATE: 20130328

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)
)
KAHKEWISTAHAW FIRST NATION) Stephen Pillipow and Adam Touet, for the
) Claimant
)
) Claimant
)
- and -)
)
HER MAJESTY THE QUEEN IN RIGHT OF)
CANADA) Lauri Miller and Donna Harris, for the
As represented by the Minister of Indian Affairs) Respondent
and Northern Development)
)
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Respondent)
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) **HEARD:** March 26, 2013

ENDORSEMENT

Honourable Johanne Mainville

A Case Management Conference (CMC) was held at the request of the Tribunal, by teleconference on March 26, 2013 at 1:30 P.M. Eastern Time (Ottawa):

I. CLAIMANT’S APPLICATION FOR PRODUCTION OF DOCUMENTS

[1] The Claimant shall file affidavit(s) in support of its Application by April 8, 2013.

[2] The Crown shall file a brief and affidavit(s) in support of its Response by April 22, 2013.

[3] The Claimant shall file a reply, if necessary, by April 29, 2013.

II. CROWN'S APPLICATION REQUESTING AN ORDER – SETTLEMENT PRIVILEGE

[4] The Crown shall file affidavit(s) in support of its Application by April 22, 2013.

[5] The Claimant shall file affidavit(s) in support to its Response by May 13, 2013.

[6] The Crown shall file a reply, if necessary, by May 27, 2013.

III. CLAIMANT'S APPLICATION: BIFURCATION – SALE PROCEEDS

[7] The Claimant shall file affidavit(s) in support of facts raised in its brief by April 8, 2013.

[8] The Crown shall file affidavit(s) in support of facts raised in its brief by April 25, 2013.

[9] The Claimant shall file a reply, if necessary, by April 29, 2013.

IV. ORAL APPLICATION

[10] The Claimant did not file a written application regarding the issue of bifurcation - sale proceeds - nor did it formally notify the Crown of its intent to seek a leave for an oral application.

[11] During the CMC, the Tribunal notified the Parties of the Claimant's failure to observe the *Specific Claims Tribunal Rules*; however, it also noted that Rule 32 of the aforementioned Rules allows the Tribunal to grant leave to make an application orally.

[12] The Claimant stated that no prejudice resulted from this failure since the issue respecting bifurcation was discussed on numerous occasions between the Parties as well as before the Tribunal.

[13] The Crown stated that it did not anticipate that an oral application would be made by the Claimant and that it didn't have an opportunity to address the matter fully at an oral hearing. However, the Crown acknowledged that since the Parties have filed their briefs and positions before the Tribunal, no prejudice occurred from the failure to observe the *Specific Claims Tribunal Rules*.

[14] Considering Rule 32 of the *Specific Claims Tribunal Rules* and the following circumstances:

[14.1] the issue of bifurcation regarding the sale proceeds was raised at a CMC held on November 7, 2013 before the Honourable Harry Slade;

[14.2] on January 24, 2013, the Crown notified the Tribunal of its position concerning this issue, and indicated again its position on the issue in its Case Management brief dated February 5, 2013;

[14.3] the Claimant also indicated its position in its Case Management brief filed on February 5, 2013;

[14.4] during a CMC held on February 13, 2013 before the undersigned, the Parties explained their positions with respect to the matter and agreed to file their briefs with respect to the matter within a certain period of time;

[14.5] the Claimant filed its brief respecting the bifurcation issue on March 15, 2013 and the Crown filed its brief along with a Book of Authorities on March 22, 2013;

[14.6] the Parties do not suffer a prejudice resulting from failure to follow Rule 32 of the *Specific Claims Tribunal Rules*.

[15] For these reasons, pursuant to Rule 4 of the *Specific Claims Tribunal Rules*, the Tribunal **RELIEVES** the Claimant with compliance with Rule 32 of the *Specific Claims Tribunal Rules*.

V. VARIA

[16] The Tribunal notifies the Parties to always indicate on a document filed with the Tribunal, as well as in an email to the Registrar, whether the document is filed on a confidential basis because the Party requests an order from the Tribunal pursuant to Rules 58 or 59 of the *Specific Claims Tribunal Rules* or because an order was rendered by the Tribunal in this regard.

VI. NEXT CASE MANAGEMENT CONFERENCE

[17] The next CMC is scheduled for May 28, 2013.

JOHANNE MAINVILLE

Honourable Johanne Mainville
Specific Claims Tribunal of Canada