

FILE NO.: SCT-5004-13
DATE: 20140604

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
WOOD MOUNTAIN LAKOTA FIRST)	
NATION)	G. Rangi Jeerakathil and Joshua Morrison,
)	for the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	Scott D. MacDonald and Lauri M. Miller,
As represented by the Minister of Indian)	for the Respondent
Affairs and Northern Development)	
)	
)	
Respondent)	
)	
)	
)	HEARD: May 30, 2014

ENDORSEMENT AND ORDER

Honourable W.L. Whalen

A Case Management Conference (CMC) was held by teleconference on May 30, 2014, at 11:00 A.M., Eastern Time (Ottawa).

[1] The Respondent agreed that this Claim is properly before the Tribunal and that the Tribunal has jurisdiction to hear it.

[2] The Respondent reported that its document search is not yet complete and it is not sure when it will be done. The Respondent is in the process of preparing a list of documents in its possession now and will produce that list to the Claimant before the next CMC. The Claimant is in the process of searching its files for documents and will produce a list of those documents to the Respondent before the next CMC.

[3] The Parties expect that they will be able to cooperate in the preparation of an Agreed Statement of Facts, an Agreed Statement of Issues and a Common Book of Documents but it is not efficient to do so before production of documents has been completed.

[4] The Claimant intends to present oral history and is in the process of identifying the elders who will testify. The Claimant is tentatively aiming to have the elders identified by September 30, 2014, when it would be able to give the names of the elders to the Respondent. The Parties agreed to confer on the process for the development and presentation of oral history evidence. The Parties will agree to a protocol for the presentation of oral history evidence before the next CMC at which the development of that evidence will be discussed.

[5] There is no need to give notice of possible interest pursuant to Section 22 of the *Specific Claims Tribunal Act*.

[6] Upon consent of the Parties and pursuant to Rule 10 of the *Specific Claims Tribunal Rules of Practice and Procedure*, SOR/2011-119, **THE TRIBUNAL ORDERS THAT:**

- a. The hearing of the Claim shall proceed in two separate stages, in order to deal with issues of validity and compensation, respectively;
- b. The Tribunal will first hold a hearing and render its decision on the validity of the Claim (“Validity Stage”);
- c. The second stage of this Claim pertaining to compensation, including the principles of compensation and any applicable compensation criteria

(“Compensation Stage”), will only proceed if the Claim is found to be valid. The Compensation Stage will not begin until the Validity Stage has been completed, the issue(s) of validity and liability, if any, decided, and the Parties have exhausted any rights they may have for judicial review to the Federal Court of Appeal or appeal to the Supreme Court of Canada;

- d. If the Claim is ultimately determined to be valid, the Parties will have a reasonable amount of time to gather evidence relating to compensation, including expert evidence, before the Compensation Stage begins;
- e. The Parties may delay taking steps to prepare their cases on compensation until a determination is made on validity; and,
- f. In relation to this Order of Bifurcation, there shall be no costs awarded to either party.

[7] The Claimant is in the process of retaining a historical expert. The Claimant will identify its expert and his/her terms of reference to the Respondent by July 31, 2014.

[8] The next CMC will be held by teleconference on September 26, 2014, at 11:00 A.M., Eastern Time (Ottawa).

W.L. WHALEN

Honourable W.L. Whalen