

FILE NO.: SCT-7001-14

DATE: 20150226

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
TOBACCO PLAINS INDIAN BAND)	Adam Munnings and Mary Mollineaux, for
)	the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	John Russell and Chris Elsner, for the
Affairs and Northern Development)	Respondent
)	
)	
Respondent)	
)	
)	
)	
)	HEARD: February 25, 2015

ENDORSEMENT

Honourable Johanne Mainville

A Case Management Conference (CMC) was held by teleconference on February 25, 2015, at 1:00 P.M., Eastern Time (Ottawa).

A. BIFURCATION ORDER

[1] On January 30, 2015, the Tribunal issued a Bifurcation Order.

B. DOCUMENT PRODUCTION AND COMMON BOOK OF DOCUMENTS

[2] On January 22, 2015, the Claimant provided the Respondent with a draft Common Book of Documents index, enumerating 68 documents which were all exchanged by the Parties when the Claim was before the Minister pursuant to the Specific Claims Policy.

[3] The Respondent has provided the Claimant with a list of relevant and non-privileged newly-researched documents. The Claimant acknowledged its reception.

[4] The Respondent is conducting further research on the practice of the Department of Indian Affairs to pay 90 % of the proceeds from the sale of reserve lands to the individual Indian regarded as the rightful occupant of the lands, and 10% of the proceeds to the band on account of its “revisionary” interest. The Respondent informed the Tribunal and the Claimant that the work is progressing well and it will provide the Tribunal and the Claimant with a status report of this research on or before **March 13, 2015**.

[5] The Parties shall advise the Tribunal by joint letter on or before **March 31, 2015** of the date by which they expect to finalize a Common Book of Documents.

C. AGREED STATEMENT OF FACTS

[6] On January 22, 2015, the Claimant provided the Respondent with a Draft Agreed Statement of Facts. In the Claimant’s view, it is a matter of efficiency to work on the Agreed Statement of Facts while working to complete the Common Book of Documents as there are a number of facts that can be agreed upon prior to completing the Common Book of Documents.

[7] The Parties shall advise the Tribunal by joint letter on or before **March 31, 2015** of the date by which they expect to finalize an Agreed Statement of Facts.

D. EXPERT EVIDENCE

[8] The Claimant shall provide its expert report in respect to the historical valuation for the lands taken for the customs house in the Customs Lands Claim and for the Water Right-of-Way Claim on or before **July 1, 2015**.

[9] The Respondent shall provide its response to the Claimant's expert report on or before **October 30, 2015**.

E. CANADA'S BREACH

[10] By email dated January 29, 2015, the Claimant agreed to the Respondent's letter to the Tribunal dated January 30, 2015, confirming the following:

...the nature of the [Respondent's] acknowledged breach of duty in that part of the claim pertaining to the right-of-way that supplied water to the Roosville Customs house is characterized as follows: "that Canada breached its fiduciary duty to the Band by failing to obtain compensation for the lands on the reserve used for a pipeline or ditch from 1918 to 1970."

F. NOTICE PURSUANT TO SECTION 22 OF THE *SPECIFIC CLAIMS TRIBUNAL ACT (SCTA)*

[11] On February 2, 2015, the Tribunal provided the Attorney General of British Columbia with a notice pursuant to section 22 of the *SCTA*.

G. AMENDED RESPONSE

[12] On February 18, 2015, the Respondent advised the Tribunal and the Claimant of its decision to not amend its Response to add the new defense to the Customs Lands Claim.

H. PROCEDURAL TIMELINE

[13] The Parties are seeking to work towards bringing the Claim's first hearing to trial in the first six months of 2016.

[14] The Parties shall provide the Tribunal with a draft schedule of pre-hearing preparations such as possible applications with respect to a procedural or evidentiary issue, if any, filing dates for the Memorandum of Fact and Law, Response and Reply on or before **March 31, 2015**.

[15] The Claimant will provide the Tribunal and the Respondent with information regarding the possible location of the hearing as well as the logistical matters related to the holding of the hearing, if any, on or before **March 31, 2015**.

I. NEXT CASE MANAGEMENT CONFERENCE

[16] The next CMC will be held by teleconference on **April 17, 2015**, at 2:30 P.M., Eastern Time (Ottawa).

JOHANNE MAINVILLE

Honourable Johanne Mainville