

**FILE NO.:** SCT-7005-12  
**DATE:** 20131107

**SPECIFIC CLAIMS TRIBUNAL  
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

<b>BETWEEN:</b>	)	
	)	
AHOUSAHT FIRST NATION	)	
	)	Stan Ashcroft, for the Claimant
	)	
Claimant	)	
	)	
<b>– and –</b>	)	
	)	
HER MAJESTY THE QUEEN IN RIGHT	)	
OF CANADA	)	
As represented by the Minister of Indian	)	Tanya Jorgenson and Chris Elsner, for the
Affairs and Northern Development	)	Respondent
	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	<b>HEARD:</b> November 5, 2013

**ENDORSEMENT**

**Honourable W.L. Whalen**

A Case Management Conference (CMC) was held by teleconference on November 5, 2013 at 2:00 P.M., Eastern Time (Ottawa).

[1] Mr. Ashcroft reported that documents had just been discovered (by chance) suggesting that the disputed land may have been leased to a church. He had informed the Crown of the discovery but had not yet had time to produce copies. He has taken steps to research whether further documents exist and this may take some time. The Claimant is directed to immediately produce copies of the recently

discovered documents to the Crown so that it can also focus its research. Counsel agreed that this development merited a pause in these proceedings to permit a review of the new documents and a search for more. It may also be necessary to amend pleadings. The status of the matter will be discussed at the next CMC.

[2] The Parties reported that they are working on a Common Book of Documents and an Agreed Statement of Fact. However, these cannot be finished until document production is complete.

[3] Mr. Ashcroft confirmed that the reel to reel tapes of elder evidence, referred to at the previous CMC, does not contain evidence relevant to this claim and therefore, he does not propose to rely on the tapes or to produce them. Crown Counsel accepted this but reserved the right to be informed of the contents of the tapes or to hear them at a later time upon request.

[4] Mr. Ashcroft confirmed that the Claimant still proposes to call oral history evidence. He also accepts the oral history protocol proposed in Mr. Elsner's letter dated October 17, 2013 and filed with the Tribunal on October 29, 2013. The Tribunal accepts the terms of the proposed protocol subject to review at a later time if the need arises. The progress of the development of oral history evidence will be reviewed at the next CMC.

[5] Mr. Ashcroft confirmed that he has retained an expert who he has identified to the Crown, but the expert's terms of reference have not been completed. The Crown indicated it would likely retain a reply expert but required the Claimant's terms of reference in order to do so. The Claimant is directed to confirm the identity of its expert and the expert's terms of reference to the Respondent before the date of the next CMC.

[6] At the next CMC, Claimant's Counsel shall clarify its position with respect to the following matters pleaded in the Declaration of Claim:

- a) whether they intend to argue negligence, or if their focus will be fiduciary duty and trust;  
and,

b) will they argue that the Crown failed under all or some of Subsections (a), (b) and (c), under Section 14(1) of the *Specific Claims Tribunal Act*.

[7] The next CMC shall be held in early February 2014, on a date to be coordinated with the Parties by the Registry.

W.L. WHALEN

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Honourable W.L. Whalen  
Specific Claims Tribunal Canada