

FILE NO.: SCT-7005-12
DATE: 20140924

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
AHOUSAHT FIRST NATION)	
)	Stan Ashcroft, for the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	Chris Elsner, for the Respondent
Affairs and Northern Development)	
)	
)	
Respondent)	
)	
)	
)	
)	HEARD: September 23, 2014

ENDORSEMENT

Honourable W.L. Whalen

A Case Management Conference (CMC) was held by teleconference on September 23, 2014, at 2:00 P.M., Eastern Time (Ottawa).

[1] The Claimant reported that it had recently produced to the Respondent a list and summary of archival documents it intended to rely on. It indicated that its document production was complete except for an Environmental Report uncovered by one of its

professional researchers and that the researcher is still considering the Report. Claimant's counsel did not know if this document would become relevant and therefore subject to production. The Claimant is directed that if it intends to rely on the Environmental Report or any other document it will produce such document to the Crown by or before October 31, 2014, failing which such document shall not be admissible except by application to the Tribunal.

[2] The Respondent indicated it required a reasonable amount of time to review the documents produced by the Claimant and any other document that the Claimant might produce by October 31, 2014, in order to determine whether as a result it will be necessary to conduct further research. The Respondent is directed to indicate to the Claimant by November 17, 2014, whether it intends to conduct further document research.

[3] The Claimant reported that its researcher has identified at least four elders who may provide oral history evidence and that the researcher has arranged to interview those elders next week. The Claimant expects that elder interviews will be completed by the end of September 2014. The Claimant is directed to identify to the Respondent by November 17, 2014, the names of the elders it proposes to rely upon for oral history evidence and to provide "will-says" of their expected evidence by December 1, 2014.

[4] Claimant's counsel confirmed that he had received a copy of the Parks Canada Report indicating that three members of the Ahousaht First Nation had been interviewed and that they may have provided information relevant to the present Claim. The interviews had been recorded on reel-to-reel tapes along with interviews of members of other First Nations. The tapes are apparently of very poor quality. The tape recordings have been transferred to CD. Claimant's counsel indicated that his researcher will review the tapes or CD's with an elder in an attempt to identify the Ahousaht members on the recording and what they said. The Claimant is directed to produce a copy of the CD recording of the tapes and the tapes themselves to the Respondent for review upon the Respondent's undertaking to maintain and return the tapes in their present condition, and to keep their contents private and confidential.

The Parties are requested to make their positions known at the next CMC as to the relevance of the tapes and whether they propose to rely on them.

[5] There was consensus that until document production is complete and the oral history will-says are in hand it is premature to consider drafting an Agreed Statement of Facts, an Agreed Statement of Issues or a Common Book of Documents. This question will be reviewed at the next CMC.

[6] The Parties confirmed that the question of a Section 22 Notice had been considered by Smith J. in 2012, resulting in Notice being delivered to the Province of British Columbia, which did not respond. The issue has therefore been canvassed.

[7] Both Parties confirmed that neither intends to present expert evidence at the validity phase of the hearing.

[8] The next CMC will be co-ordinated by the Registry with a view to holding it at a mutually convenient time during the week of January 26, 2015.

W.L. WHALEN

Honourable W.L. Whalen