

FILE NO.: SCT-7006-11
DATE: 20141017

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
HUU-AY-AHT FIRST NATIONS)	
)	Kate Blomfield and Emma Hume, 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: October 14, 2014

ENDORSEMENT

Honourable W.L. Whalen

A Case Management Conference (CMC) was held by teleconference on October 14, 2014, at 2:00 P.M, Eastern Time (Ottawa).

[1] The Claimant took the position that it was entitled to costs following the hearing of the first phase of this Claim, but that because of the requirement to deduct funding received from

any costs recovered it would not seek costs from the first phase hearing. However, the Claimant reserved its right to seek costs of the second phase of hearing.

[2] The Parties are in possession of copies of the Claimant's trust account ledgers up to 1969 (except for 1951 and 1953, which have been lost). The Respondent has undertaken archival research for the trust records from 1970 until April 2011 when the Claimant took over management of its own financial affairs as a modern First Treaty Nation. The Respondent is to produce copies of the records resulting from its archival research by or before November 3, 2014. The Claimant will produce its relevant documents, including financial audited financial statements from 2011 until the present, by December 1, 2014.

[3] The Respondent observed that it would likely be necessary to obtain documentation underlying the trust ledgers in order to be able to understand particular line items. The Claimant agreed but expressed concerns about delay. The Parties agreed that they would start discussions now on the question in respect of trust ledgers already produced. The Respondent will immediately identify questions in respect of line items it has questions or concerns about and the Parties will discuss those concerns with a view to resolution by agreement or identifying areas where further explanatory document research may be necessary. They will continue this cooperative process as trust ledgers become available. The results of these discussions will be reviewed at the next CMC.

[4] The Claimant indicated that it was in the process of engaging an expert to provide an opinion on bringing forward compensation. The Parties agree that the Claimant will deliver its expert's report to the Respondent by April 15, 2015. The Respondent has identified its responding expert but has not completed a retainer. The Claimant asks that the Respondent's responding expert report be delivered by June 1, 2015. The Respondent cannot commit to that date at this time but does not reject it either. The Tribunal urged the Respondent to complete a retainer of its expert with a view to meeting the June 1, 2015 target date. The question will be reviewed at the next CMC.

[5] The Claimant has requested that phase two of this Claim be heard with or shortly after a similar Claim brought by the Tsleil-Waututh First Nation so that the Tribunal may have the benefit of the evidence and expert opinions from both proceedings, given that the Tribunal's decisions may have precedential effect in that the Tribunal has not previously decided the question. The Tribunal indicated that it was not opposed to the suggestion as long as neither proceeding would be significantly delayed as a result.

[6] The Respondent expressed its desire for the opportunity to attempt to resolve the Claim through negotiation at some point. The Claimant was not opposed to this suggestion provided it did not cause significant delay in moving the case toward hearing. It is not likely that meaningful negotiations could be undertaken until the Parties' expert reports have been completed and exchanged. At that point, however, there should be an opportunity to negotiate without causing delay. The Respondent is invited to raise the question when appropriate at a future CMC.

[7] The next CMC will be held by teleconference on January 23, 2015 at 2:30 P.M., Eastern Time (Ottawa).

W.L. WHALEN

Honourable W.L. Whalen