

**FILE NO.:** SCT-3001-16

**DATE:** 20170822

**SPECIFIC CLAIMS TRIBUNAL  
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

<b>BETWEEN:</b>	)	
	)	
BIG GRASSY	)	
(MISHKOSIIMIINIIZIIBING) FIRST	)	
NATION (INDIAN BAND) AND	)	Donald R. Colborne, for the Claimants
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NATION (INDIAN BAND)	)	
	)	
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	)	
Claimants	)	
	)	
<b>- and -</b>	)	
	)	
HER MAJESTY THE QUEEN IN RIGHT	)	
OF CANADA	)	Lisa Cholosky, for the Respondent
As represented by the Minister of Indian	)	
Affairs and Northern Development	)	
	)	
	)	
Respondent	)	
	)	
	)	
	)	<b>HEARD:</b> July 6, 2017

**ENDORSEMENT**

**Honourable Paul Mayer**

A Case Management Conference (CMC) was held by teleconference on July 6, 2017, at 4:30 P.M., Eastern Time (Ottawa).

## **Potential Settlement Negotiations**

[1] The Parties informed the Tribunal that they are now seriously considering settlement negotiations rather than Tribunal assisted mediation, the latter of which was on course to possibly commence in the Fall of 2017.

[2] The Parties indicated that one of the advantages in pursuing negotiations for this Claim specifically is that the Respondent would use its negotiator who is involved in ongoing settlement negotiations for one of the Claimant's other specific claims ("flooding claim"). The negotiator is acutely familiar with valuation considerations for that claim and has working experience negotiating with the Claimant(s), which lends itself well to obtaining a valuation amount for this Claim in an expedient fashion and with the Claimants' active and direct involvement.

[3] The Parties have agreed to use the information and methodology from the flooding claim for potential settlement negotiations under the Respondent's Specific Claims Policy or Tribunal assisted mediation, but not for the purposes of litigation before the Tribunal.

## **Mediation**

[4] The Parties reported that they had agreed on a final draft Mediation Agreement just before this CMC. However, the Mediation Agreement could not be signed until after August 1, 2017, when the Respondent's negotiator was to return from vacation. However, the prospect for settlement negotiations instead renders the filing of an executed Mediation Agreement unnecessary at this time.

[5] In the meantime, the Parties shall withdraw a draft Mediation Agreement filed on this Claim for the Tribunal's information mainly but prepared for another claim of one of the Claimants before the Tribunal (SCT-3002-11), which may enter into mediation in Fall of 2017 or later.

[6] Should mediation proceed instead, the Parties noted that the Respondent's negotiator would be the same individual as mentioned above. Ongoing discussions on use of the flooding

claim materials for settlement negotiations would apply equally to facilitating a settlement through mediation.

### **Next Steps**

[7] Initially, the next CMC was to be held together with claim SCT-3002-16 by teleconference on August 25, 2017, at 1:00 P.M., Eastern Time (Ottawa). However, the Parties' respective CMC briefs filed on August 18, 2017, indicate that a further CMC in October of 2017 would be advised, at which point the Respondent will have already formally notified the Claimants in writing of the Minister's decision on whether the Respondent is prepared to enter settlement negotiations for this Claim (the letter is expected to be delivered by mid-September, 2017).

[8] As such, and having considered the Parties' progress made over the summer towards arriving at a potential settlement of the Claim as outlined in their recent briefs, including notably that "the Parties are optimistic that an agreement on compensation will be reached by the end of the 2017 calendar year", the Tribunal is satisfied with the direction of this Claim to date and believes that a CMC in early October of 2017 instead would be more beneficial.

[9] If either Party wishes to go forward with a CMC for this Claim on August 25, 2017, the Party should contact the Registry on or before **Wednesday, August 23, 2017**, to inform the Tribunal of this desire. Otherwise, the Parties shall contact the Registry shortly to schedule a CMC for a date in mid-October of 2017.

PAUL MAYER

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Honourable Paul Mayer