

SPECIFIC CLAIMS TRIBUNAL

TRIBUNAL DES REVENDEICATIONS  
PARTICULIÈRES

January 13, 2016

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SCT File No. SCT-6006-12

**SPECIFIC CLAIMS TRIBUNAL**

BETWEEN:

**ATHABASCA CHIPEWYAN FIRST NATION**

Claimant

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA  
As represented by the Minister of Indian Affairs  
and Northern Development**

Respondent

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**APPLICATION FOR LEAVE AND NOTICE OF APPLICATION  
Pursuant to Rules 29 and 30 of the *Specific Claims Tribunal Rules of Practice and Procedure* and Section 13(1)(a) of the *Specific Claims Tribunal Act***

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TO:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA  
As represented by Linda Maj and Sherry Daniels  
Solicitors for the Respondent  
Department of Justice Canada  
EPCOR Tower  
300, 10423 - 101 Street  
Edmonton, Alberta T5H 0E7

TAKE NOTICE THAT an application will be made on behalf of the Claimant, the Athabasca Chipewyan First Nation (“ACFN”), before the Specific Claims Tribunal (the “Tribunal”) pursuant to Rules 29 and 30 of the *Specific Claims Tribunal Rules of Practice and Procedure* (the “Rules”) to determine the eligibility of the ACFN to claim for agricultural benefits under Treaty 8 and for the Tribunal to direct the Respondent to identify from amongst the approximately 3,000 records produced by the Respondent, records that are relevant and applicable to ACFN’s eligibility to claim agricultural benefits under Treaty 8.

**I. RELIEF SOUGHT**

1. An Order granting leave to the Claimant to bring an application pursuant to Rules 29 and 30 of the *Rules*; and
2. An Order declaring that the Claimant is eligible to claim agricultural benefits under Treaty 8.
3. An Order for the Respondent to identify and categorize from the Respondent's produced records those records that relate to:
  - (i) the eligibility of the Claimant to bring a claim for agricultural benefits under Treaty 8;
  - (ii) the validity of the Claim; and
  - (iii) any set-offs claimed by the Respondent to any entitlement owing to the Claimant in the following order:
    - (a) documents relating to the ineligibility of the Claimant to claim agricultural benefits;
    - (b) documents referencing Treaty 8;
    - (c) documents referencing any request for or provision of treaty entitlements to agricultural benefits;
    - (d) documents relating to the creation of ACFN's reserves;
    - (e) documents relating to ACFN members' residency on or off ACFN's reserves; and
    - (f) documents relating to set-offs claimed by the Respondent including:
      - (1) documents relating to the provision of federal government services to ACFN such as social assistance, housing, education, infrastructure and economic development; and
      - (2) documents relating to the provision of federal government funding to ACFN for economic development.

## **II. GROUNDS**

The grounds of this application are:

1. The Claimant's Declaration of Claim filed December 13, 2012 (the "Claim"), the Respondent's Response to the Declaration of Claim filed March 12, 2013, the

Claimant's Case Management Brief dated September 6, 2013, the Respondent's Case Management Brief dated May 22, 2013 and the various joint reports filed with the Tribunal in respect of this matter, indicate that there are two issues for determination by the Tribunal: (a) the validity of the Claim and (b) monetary compensation payable.

2. A determination of the eligibility of the Claimant to claim agricultural benefits under Treaty 8 is a precondition to determining the validity of the claim and compensation payable.
3. A determination of the Claimant's eligibility will expedite matters and reduce costs for both parties.
4. The parties agreed in various joint reports filed with the Tribunal that a bifurcation of the issues of validity and compensation would be an efficient and effective way of proceeding with the Claim.
5. The Respondent has produced approximately 3,000 documents as part of its record without identifying which parts of the record relate to the two issues in the Claim.
6. Proper identification and grouping of the records by the Respondent will reduce costs and help to facilitate a speedy resolution of the matters in dispute between the parties.

### **III. CONSENT**

The Respondent has not consented to the relief sought.

### **THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIALS**

1. The Claim, the Respondent's Response to the Declaration of Claim filed March 12, 2013, the Claimant's Case Management Brief dated September 6, 2013, the Respondent's Case Management Brief dated May 22, 2013 and the various joint reports filed with the Tribunal in respect of this matter.
2. Such further and other material as counsel may advise and the Tribunal may permit.

Dated the 12<sup>th</sup> day of January 2016 at the City of Edmonton in the Province of Alberta.

**Richard Secord, Ackroyd LLP**

Per: 