

FILE NO.: SCT-1001-16
DATE: 20180723

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
EEL RIVER BAR FIRST NATION)	
)	Murray Klippenstein, for the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	Patricia MacPhee, for the Respondent
Affairs and Northern Development)	
)	
)	
Respondent)	
)	
)	
)	
)	HEARD: July 17, 2018

ENDORSEMENT AND ORDER

Honourable Paul Mayer

A Case Management Conference (CMC) was held by teleconference on July 17, 2018, at 4:30 P.M., Eastern Time (Ottawa).

[1] The Claimant has experts Joan Holmes and Peter Armitage reviewing historical documents gathered thus far. This analysis will take a few more months.

[2] The Respondent will provide the Claimant with a first draft of the Common List of Documents on or before **September 28, 2018**.

[3] Both Parties have agreed to bifurcate the Claim. An Order is issued below.

[4] At the next CMC, the Parties will speak to the issue of historical loss for the alleged inadequate pricing, which should be determined at the validity stage.

[5] The Parties seek to engage a joint expert, possibly from the engineering firm, Boissonnault McGraw. The Respondent provided the Claimant with a draft Statement of Work with proposed questions for the joint expert engineer. The Claimant will return the draft Statement of Work with comments to the Respondent, on or before **July 31, 2018**, and the Parties expect to finalize this on or before **August 7, 2018**. The Parties will speak to their progress on the joint expert report at the next CMC.

[6] The Respondent may require a historical expert. The Respondent will speak to this at the next CMC.

[7] The Claimant elected Peter Armitage to conduct a land use and occupancy study. Mr. Armitage will attend a site visit on the claim area in mid-August 2018. The Claimant will speak to the time required for Mr. Armitage to finalize his expert report at the next CMC.

[8] The Respondent will determine if it requires a reply report after receipt of the Claimant's land use and occupancy expert report.

[9] The next CMC will be held by teleconference on **October 16, 2018**, at 4:30 P.M., Eastern Time (Ottawa).

[10] Pursuant to Rule 10 of the *Specific Claims Tribunal Rules of Practice and Procedure*, SOR/2011-119, and upon the request of the Parties, **THE TRIBUNAL ORDERS that:**

- a. The hearing of this Claim shall proceed in two separate stages, in order to deal with issues of validity and compensation, respectively;

- b. The Tribunal will first hold a hearing and render its decision on the validity of the Claim (Validity Stage);
- c. The second stage of this Claim pertaining to compensation, including the principles of compensation and any applicable compensation criteria (Compensation Stage), will only proceed if the Claim is found to be valid. The Compensation Stage will not begin until the Validity Stage has been completed, and the issue of validity decided;
- d. If the Claim is ultimately determined to be valid, the Parties will have a reasonable amount of time to gather evidence relating to compensation, including expert evidence, before the Compensation Stage begins;
- e. The Parties may delay taking steps to prepare their cases on compensation until a determination is made on validity; and,
- f. In relation to this Order of Bifurcation, there shall be no costs awarded to either party.

PAUL MAYER

Honourable Paul Mayer