

FILE NO.: SCT-4001-12
DATE: 20130820

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)
)
WAYWAYSEECAPPO FIRST NATION)
)
Claimant) Earl C. Stevenson and Norman Boudreau,
) for the Claimant
)
- and -)
)
HER MAJESTY THE QUEEN IN RIGHT)
OF CANADA)
As represented by the Minister of Indian)
Affairs and Northern Development) Jeff Echols, for the Respondent
)
Respondent)
)
- and -)
)
GAMBLER FIRST NATION)
)
Applicant) Stephen Pillipow and Adam Touet for the
) Applicant
)
) **HEARD:** August 15, 2013

ENDORSEMENT

Honourable W.L. Whalen

A Case Management Conference (CMC) was held by teleconference on August 15, 2013 at 11:02 A.M., Eastern Time (Ottawa).

[1] The above named counsel participated in a CMC today in respect of an Application by Gambler First Nation to be added to the proceeding as an intervening party.

[2] The Applicant did not file a CMC Brief but should do so in the future.

[3] The Respondent has not yet filed its Response to the Application although its position was stated briefly in its CMC brief. The Respondent shall file its Response to the Application by or before September 9, 2013.

[4] Considerable time was spent discussing the respective interests and obligations of the current parties and the Applicant in respect of the subject matter of the Claim. The interests and obligations of the current parties and the Applicant seem closely related because of the history of the creation of IR #62 and IR #63, and because of the history of the relationship of the Claimant First Nation and the Gambler, which was a part of the Claimant First Nation at some point in time and which gradually evolved into a separate entity (now the Applicant).

[5] The Applicant emphasizes the claim of illegal surrender of part of IR #62 and does not want that issue compromised. It asserts having had some benefit from administering IR #63, but it does not appear to claim IR# 63 as its own. The Respondent asserts legal surrender for the part of IR #62 in issue, which it states resulted in the creation of IR#63 in exchange for the surrendered land. The Respondent's position is that the surrendered land was intended for the Applicant, which broke away from the Claimant First Nation by agreement of all. However, the historical facts and circumstances are in dispute on all sides.

[6] Because the issues are so inter-related, the current parties and Applicant have agreed to consider consenting to the addition of the Applicant as a party (Intervening Respondent) and broadening the proceeding to permit a global resolution of their various rights and obligations pursuant to S.22(1) of the Act. The Applicant required the opportunity to seek instructions on this approach.

[7] The question of adding the Applicant as an Intervening Respondent to a restructured proceeding that would permit global resolution will be considered at the next CMC on September 16, 2013 at 11:00 A.M., Ottawa time.

[8] The Applicant indicated that it might call oral history although it will consider whether this is really necessary for the current Application, and whether an affidavit would suffice. This will also be considered at the next CMC, when the parties should also be prepared to propose a protocol for the presentation of oral history evidence should such evidence be necessary at the hearing.

[9] The current parties and Applicant are reminded of the certificate required by Rule 95 in respect of the swearing of affidavits. Also, if the parties and Applicant propose to rely on affidavits already filed and those affidavits contain copies of hand written documents or other documents that are not fully legible, the said exhibited documents must include transcriptions of such documents and leave is granted to file such transcriptions as supplementary affidavits to affidavits already filed. Transcriptions must also be part of any future affidavits exhibiting documents that are not clearly legible.

[10] For the assistance of the Tribunal, the parties are requested to file a joint map indicating the relative locations of IR #62 and IR #63, and of the lands purportedly illegally surrendered.

[11] Leave is granted to amend the pleadings to state the name of the Respondent in the style of cause as “Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development”.

W.L. WHALEN

Honourable W.L. Whalen
Specific Claims Tribunal Canada