

SPECIFIC CLAIMS TRIBUNAL		
TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES		
F I L E D	October 17, 2014	D É P O S É
Guillaume Phaneuf		
Ottawa, ON	61	

**SCT-5001-13**

**SPECIFIC CLAIMS TRIBUNAL**

**BETWEEN:**

**KAWACATOOSE FIRST NATION, PASQUA FIRST NATION, PIAPOT FIRST NATION, MUSCOWPETUNG FIRST NATION, GEORGE GORDON FIRST NATION, MUSKOWEKWAN FIRST NATION AND DAY STAR FIRST NATION**

**CLAIMANTS**

-and-

**LITTLE BLACK BEAR FIRST NATION**

**CLAIMANT**

-and-

**STAR BLANKET FIRST NATION**

**CLAIMANT**

-and-

**STANDING BUFFALO DAKOTA FIRST NATION**

**CLAIMANT**

-and-

**PEEPEEKISIS FIRST NATION**

**CLAIMANT**

-and-

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**  
(as represented by the Minister of Aboriginal Affairs and Northern Development Canada)

**RESPONDENT**

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**DECLARATION OF CLAIM**

**Pursuant to Rule 41 of the *Specific Claims Tribunal Rules of Practice and Procedure***

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This Declaration of Claim is filed under the provisions of the *Specific Claims Tribunal Act* and the *Specific Claims Tribunal Rules of Practice and Procedure*.

To: Assistant Deputy Attorney General, Litigation, Justice, Canada  
234 Wellington Street East Tower  
Ottawa, ON K1A 0H3  
Fax: (613) 954-1920

**I. CLAIMANTS (Rule 41(a))**

1. The Claimant, Standing Buffalo Dakota First Nation (“Standing Buffalo”) confirms they are a First Nation within the meaning of s. 2(a) of the *Specific Claims Tribunal Act*, located in the Province of Saskatchewan.

**II. ADDRESS FOR SERVICE (Rule 41(b))**

2. The name, address, telephone number and email address of legal counsel for Standing Buffalo for the purpose of service of documents is as follows:

Standing Buffalo Dakota First Nation  
c/o Phillips & Co.  
Barristers and Solicitors  
2100 Scarth Street  
Regina, Saskatchewan S4P 2H6  
Phone: (306) 569-0811  
Fax (306) 565-3434  
Email: [phillipsco@phillipsco.ca](mailto:phillipsco@phillipsco.ca)

**III. CONDITIONS PRECEDENT (Rule 41(c))**

3. The following conditions precedent, as set out in s. 16(1) of the *Specific Claims Tribunal Act*, have been fulfilled:

16(1)(a) The claim was previously filed with the Minister and the Minister has notified the First Nation in writing of his or her decision not to negotiate the claim, in whole or in part;

4. The original claims submission for the Last Mountain Reserve No. 80A 1918 surrender claim was submitted to the Specific Claims Branch on June 7, 2008 on behalf of Piapot, Day Star, Kawacatoose, Muskowekwan, Star Blanket, Pasqua and George Gordon First Nations (“original claimants”).

5. On March 31, 2009, Anik Dupont, Director General, Specific Claims Branch, advised the original claimants that a review of the claim had been completed and was filed with the Minister as having met the minimum standards pursuant to the *Specific Claims Tribunal Act* and as set out in the *Specific Claims Policy and Process Guide*.
6. On December 8, 2011, Senior Assistant Deputy Minister Patrick Borbey advised the original claimants in addition to the Little Black Bear First Nation (who later jointed as a party to the submission) that some allegations raised were accepted for negotiation but that the improper surrender allegation was not accepted for negotiation as it was Canada's position that it did not breach its pre-surrender fiduciary duty and complied with all *Indian Act* requirements for the taking of the surrender. Another issue raised by Canada was the issue of who the proper beneficiary First Nations were and prior to commencing negotiations, the beneficiary issue had to be resolved.
7. On February 28, 2012, Acting Senior Assistant Deputy Minister Joelle Montminy determined that out of the claimants, that Day Star, Pasqua, Piapot, Muscowpetung, Moskowekwan, George Gordon and Kawacatoose First Nations were proper beneficiaries and Canada was prepared to negotiate with only those beneficiaries and for only the aspects of the submission accepted for negotiation (i.e. without the improper surrender allegation). Canada did not accept that the Star Blanket First Nation and Little Black Bear First Nation were proper beneficiaries and as a result Canada did not enter negotiations with them.
8. Also on February 28, 2012, a letter from Acting Senior Assistant Deputy Minister Joelle Montminy was sent to the Standing Buffalo advising of the claim that had been received with respect to the Last Mountain Reserve. It was Canada's position that the Standing Buffalo had an interest in 80A and the settlement of the claim. Canada therefore invited the Standing Buffalo to participate with respect to the claim.

9. On March 12, 2012, the Peepeekisis First Nation requested to be considered a claimant in the Last Mountain Reserve 80A claim. On April 12, 2012, Anik Dupont, Director General, Specific Claims Branch advised that it was Canada's position that Peepeekisis First Nation was not a proper beneficiary to the claim and as such would not be added as a claimant.
10. On April 17, 2012, at a meeting of the First Nations with an interest in the claim, instructions were given to inquire of Canada whether negotiations could proceed on those aspects of the claim accepted for negotiation while determining the validity of the surrender proceeded by way of a Declaration before the Tribunal.
11. On July 6, 2012, correspondence from Lyle Henderson on behalf of Canada advised that it was Canada's position that it would not be appropriate to "split" the claim for purposes of both negotiating and litigating the same issues, the same facts and the same transaction concurrently.

#### **IV. OTHER PROCEEDINGS**

12. Pursuant to s. 15(3) of the *Act* where "there are proceedings before a court or tribunal other than the Tribunal that relate to the same land or other assets and could result in a decision irreconcilable with that of the claim or that are based on the same or substantially the same facts", then the First Nation is not able to file a claim.
13. Standing Buffalo has consulted with the Crown regarding participation in these proceedings notwithstanding the existing comprehensive claim in the Federal Court in T-1616-11.
14. Standing Buffalo has proposed and consented to an amendment of the Statement of Claim in T-1616-11 to exclude any cause of action pertaining to the Last Mountain Reserve addressed through the Specific Claims Tribunal process. Canada has indicated in correspondence from Lauri Miller, Department of Justice Canada dated August 1, 2014, that Canada is prepared to proceed on this basis and does not oppose Standing Buffalo's involvement in the claim with respect to the Last Mountain Reserve before the Specific Claims Tribunal.

**V. CLAIM LIMIT (Rule 41(f), Act, s. 20(1)(b))**

15. For the purposes of these proceedings, compensation is not sought in excess of \$150 million dollars.

**VI. GROUND S (Rule 41(d) and Act, s. 14(1))**

16. The following are the grounds for the Specific Claim, as provided for in s. 14(1) of the *Specific Claims Tribunal Act*:

- 14(1)(b) a breach of legal obligation of the Crown under the Indian Act or any other legislation—pertaining to lands reserved for Indians
- 14(1)(c) a breach of a legal obligation arising from the Crown’s administration of reserve lands, Indian moneys or other assets of the First Nation, including unilateral undertakings that give rise to a fiduciary obligation in law.
- 14(1)(d) an illegal disposition by the Crown of reserve lands
- 14(1)(e) a failure to provide adequate compensation for reserve lands taken by the Crown or any of its agencies under legal authority

**VII. ALLEGATIONS OF FACT (Rule 41(e))**

17. Standing Buffalo is part of the Dakota/Sioux Nation, which has had traditional land in what is now known as Canada since prior to contact with Europeans. This traditional land is located primarily in what is now known as Alberta, Saskatchewan and Manitoba. Standing Buffalo has never signed a treaty and relies upon ally-ship in its historical relationship with Canada. There is acknowledgment of Aboriginal Title of the reserve situate at Standing Buffalo First Nation No. 78, however Standing Buffalo claims un-extinguished Aboriginal Title beyond same. Further there is acknowledged Aboriginal Title in the Last Mountain Reserve as provided for hereafter.

18. Between the Dakota/Sioux and the Crown there is a special relationship, which is known in the Dakota language as *ochechea*, *zoya ochechea-pi*, and *apa to dehun okcheya okum-pi* (roughly translated as ‘alliance’ or ‘ally-ship’), and this relationship creates heightened obligations on the Crown in comparison to the Crown’s obligations to Aboriginal people in general, based on the fact that the specific obligations of the Crown in relation to a particular Aboriginal people arise out of the specific nature of their relationship.

*The Last Mountain Reserve*

19. The Last Mountain Reserve IR 80A (the “Last Mountain Reserve”) is comprised of 2.2 square miles (1,408 acres) located on the Little Arm River, on the south side of the Long or Last Mountain Lake in the Qu’Appelle Valley, Saskatchewan.
20. In the spring of 1884, John C. Nelson, Dominion Land Surveyor travelled to Long or Last Mountain Lake in order to select a suitable site(s) for Fishing Station(s) for the Touchwood Hills and Qu’Appelle Valley Indians. He proposed that the Fishing Station should be reserved at the mouth of the “Little Arm” River on the Long or Last Mountain Lake.
21. On May 17, 1889, the Last Mountain Reserve was selected as the site for the “Fishing Station” to be used by the First Nations in the Touchwood Hills and Qu’Appelle Valley Indians by the Order in Council 1151.
22. In 1907, the Department of Indian Affairs instructed Agent Graham to take up the question of surrender of the Last Mountain Reserve. Graham inquired whether he was required to approach Piapot, Muscowpetung, Pasqua, the Sioux of Qu’Appelle Valley, Gordons, Muscowekwan, Day Star and Poormans to obtain a surrender or whether he could need only obtain a surrender from those living on the Last Mountain Reserve.
23. Secretary McLean response to this inquiry was as follows:

Sufficient, under provisions of the *Indian Act*, to take a surrender of this reserve from the Indians resident on or near the same and interested therein, but of course the Indians for whom the reserve was set aside would be entitled to share in the distribution of the moneys received therefore.

24. And on February 24, 1908, Graham wrote to Secretary McLean returning the surrender forms and stating “the Indians interested in this reserve would not consider the proposition”.
25. In 1913, Secretary McLean inquired of Agent Murison which bands were interested in the Last Mountain Reserve for which Agent Murison reported the File Hills Agency included Muscowequons, Gordons, Day Stars and Poormans; and in the Qu’Appelle Agency he said “old Indians” claim Piapot had no claim to the Fishing Station; Pasqua and Muscowpetung had fishing privileges on Qu’Appelle Lake and were not mentioned when the Fishing Station was set aside; and Peepeekesis was the only Band to have a right to share in the Fishing Station.
26. On May 14, 1915, Inspector Graham had written to the Deputy Superintendent General of Indian Affairs, D.C. Scott, recommending that the surrender of the Last Mountain Reserve not proceed. In making this recommendation, Inspector Graham stated:

[A]s nearly as I can make out the Indians interested in this reserve are those of the Touchwood Hills Agency, Qu’Appelle Valley, which includes all the Indians of the Qu’Appelle, File Hills and Crooked Lake Agencies, as the latter claim they are interested to the same extent as are the Indians of Qu’Appelle and File Hills. If this is the case there would be about eighteen hundred Indians entitled to share in the proceeds derived from the sale of this reserve.
27. Standing Buffalo is a band within the Qu’Appelle Valley and its band members Indians of the Qu’Appelle Valley. Inspector Graham viewed the Indians of the Qu’Appelle partial beneficiaries of any proceeds that would result from the surrender of the Last Mountain Reserve.
28. In 1915, the Crown granted permission to use spring water on reserve to provide water to Regina Beach.
29. In 1916, frequent usage of the reserve by campers in the summer started and also a request to build a hotel on the reserve occurred.

30. Concerns were raised in 1917 regarding sanitation conditions on the reserve.
31. In January 1918, a request for permission to graze and produce hogs was received by the Crown.
32. This series of events resulted in February of 1918, Deputy Superintendent General Scott requesting surrender forms be sent to Inspector Graham so a surrender could be taken simultaneously from the Qu'Appelle and Touchwood Hills Agency Bands.
33. By letter dated May 17, 1918, Commissioner Graham forwarded a surrender document to Deputy Superintendent General Scott, dated March 23, 1918, for the surrender of 1,408 acres of the Last Mountain Reserve, in trust to sell, signed by the Touchwood Agency Chiefs from the George, Gordon, Poorman, Day Star and Muscowequon and the Qu'Appelle Agency Chiefs from Muscowpetung, Pasqua and Piapot First Nations.
34. The affidavit dated March 23, 1918 in support of the alleged surrender was signed with Agent Murison by Chief Gordon, Chief Kinequon, Chief Tawekesiquape and Chief Desjarlais from the Touchwood Agency. The second affidavit dated May 9, 1918 in support of the alleged surrender was signed with Agent Christianson by Chief Cappo, Chief Pasqua, and Chief Musqua from the Qu'Appelle Agency.
35. On May 27, 1918, Secretary McLean requested Inspector Graham provide information "as to the number of Indians of these bands entitled to vote, the number present at the meetings, the number voting for the surrender, and the number voting against."
36. On June 13, 1918, Inspector Graham provided certificates from Agents Christianson and Murison certifying that from Qu'Appelle Agency: Muscowpetung 18 for, none against, 6 absent; from Pasqua 19 for, none against, 6 absent; and from Piapot 31 for, none against, 21 absent; from Day Star 18 for, none against, 1 absent; from Gordon 42 for, none against, 6 absent; and from Muscowequon 38 for, none against and 4 absent.

37. On July 1918, Order in Council P.C. 1813 was passed pursuant to s. 49 of the *Indian Act* approving the “duly authorized surrender” by Muscowpetung, Pasqua and Piapot bands from the Qu’Appelle Agency and Poorman, Day Star, George Gordon and Muscowequon bands from the Touchwood Agency.
38. On June 4, 1919, 33 lots were sold by auction. Later in July 1919, an additional 51 lots were sold. In August of 1919, a further 18 lots were sold. Some lots were sold in September, October and November of 1919. By January of 1938, there remained 58 unsold lots.
39. Despite the surrender stipulation that the surrendered land be sold, on April 7, 1922, the Department and the Village of Regina Beach entered into a 21 year lease of 9 acres of lakefront property for recreational purposes with a right to renew for another 21 years. On August 15, 1923, a lease was entered into between the Department and the Regina Beach Golf and Country Club for a quarter section of land to develop a municipal golf course. On June 18, 1928, a renewal of the lease was granted to the Village of Regina Beach, who had received the lease by assignment. On June 16, 1928, a grazing lease covering 160 acres was granted for 5 years with Florence Dufree, with a right to renew for a further 5 years. Another 5 year grazing lease of approximately 450 acres was granted to F. Wollatt on October 10, 1930 with a right to renew for a further 5 years. On May 22, 1935, the Department entered into a lease with the Village of Regina Beach for 1,207.5 acres for a term of 20 years.
40. When it came to distribution of the sale proceeds, Chief Surveyor Bray in a memo dated September 23, 1919 wrote to the Department that the Last Mountain Reserve was set apart for the Touchwood Hills and Qu’Appelle Valley Indians and the surrender was made by Muscowpetung, Pasqua, Piapot, Poorman, Day Start, George Gordon and Muskowekwan Bands to whom the settlement funds should be distributed.
41. In July 1924, Chief Surveyor Donald Robertson reviewed the matter as to who was entitled to share in the Last Mountain Reserve. In a memorandum to the Deputy Minister dated July 21, 1924, Robertson stated:

Correspondence from Departmental headquarters at the time of selection refers to it as for the Indians in the vicinity of Long or Last Mountain Lake. Strictly speaking, the terms Qu'Appelle Valley Indians would include the File Hills reserves, which are Peepeekeesis, Okanase [sic], Star Blanke, Little Black Bear and also the Crooked Lakes reserves, which are Ochapowace, Kakewistahaw [sic], Cowesses, Sheseep and Sakimay, as well as Assiniboine and Standing Buffalo. All the above reserves are additional to those which apparently the Department has considered were entitled to share the proceeds of the sale of Indian reserve No. 80A.

42. Robertson could not understand why Standing Buffalo was excluded with the only possible rationale was that because Standing Buffalo boarded on the Fishing Lake, but also did Pasqua; or alternatively because Standing Buffalo was an "American Sioux" band.
43. On July 19, 1924, Deputy Superintendent Scott wrote to Graham and in his view, the Qu'Appelle Valley Indians was a "misnomer" and that these bands were known around Fort Qu'Appelle as Piapot, Muscowpetung and Pasqua. Standing Buffalo was not included as they were described as American Sioux Indians. He noted that although the Last Mountain Reserve might not have been intended for Pasqua, he was reluctant to exclude them from sharing in the proceeds since they were not specifically excluded. Pasqua First Nation like Standing Buffalo boards the Fishing Lake; and the only distinguishing feature is the incorrect reference to Standing Buffalo as being "American Sioux Indians".
44. The distribution of the settlement proceeds up until 1937 were made proportionately to the 7 bands that allegedly participated in the surrender. On August 29, 1938, a lawyer for the Touchwood Agency Bands stated that the 4 bands he represented asserted that the Qu'Appelle Bands had no interest in the Last Mountain Reserve since they were located next to a lake or close to one, that the fishing station was intended only for them and that the Qu'Appelle Bands should not receive the benefits of the settlement proceeds. In response, the Director of Indian Affairs stated that according to the Order in Council confirming the reserve in 1889 for the Touchwood Hill and Qu'Appelle Valley Indians, the Indian Bands who had an equal interest the Last Mountain Reserve were Piapot,

Muscowpetung, Standing Buffalo, Pasqua (from Qu'Appelle Valley) and Gordon, Muscowequan, Day Star and Poorman (from the Touchwood Hills district).

45. In March of 1949, the Regional Supervisor inquired of the Department as to which bands were entitled to share in the surrender proceeds since some Indians claimed specific areas of the reserve were allocated to them while others mentioned that they had rights to the reserve. In response, Superintendent Allen, Reserves and Trusts, in a letter dated April 2, 1949, stated the Last Mountain Reserve was set aside for the benefit of Pasqua, Piapot, Muscowpetung, Gordon, Day Star, Poorman and Muskowekwan Bands.
46. On February 25, 1954, Mr. Wang, Member of Parliament for Qu'Appelle, forwarded to the Minister of Citizenship and Immigration a letter dated February 9, 1954 from Piapot Chief Ball and Councillors Crowe and Watetch alleging that the signatories to the surrender were approached individually over 3 months by Inspectors Murison and Christianson to sign the surrender; that no meeting was held; and that Chief Ball was interpreter at the time and was therefore aware of the repeated requests. On May 21, 1954, a follow up letter was set to the Minister of Citizenship and Immigration.
47. On May 25, 1954, Director Jones replied to the Piapot Chief and Councillors stating "there was no evidence uncovered that would indicate that the surrender was not given in accordance with the provisions of the Indian Act" and that the consent of a majority of the members was obtained. He also stated that while Pasqua was to share in the reserve, Little Black Bear was not, having been allocated a reserve in the File Hills area.
48. The Crown has questioned whether the surrender properly occurred. In a memorandum dated June 17, 1954, Director H.M. Jones acknowledged:

...It is very difficult to comment on this case because the Indian Affairs Branch file on files covering the period at which the surrender was taken have been lost for some years and we have no records concerning the surrender which would indicate whether it was properly taken or was taken in the manner suggested by Chief Ball, that is, by merely having the Chiefs of the respective Bands sign the surrender. There is suspicion in the minds of our officials that the claim by the Indians may be only too true but it seems next to impossible to substantiate this from our records for, as stated above, we have none that are material...

49. On December 1, 1954, Superintendent Brown wrote to Jones confirming that he had reviewed the matter of the Last Mountain Reserve and indicated he could not confirm or discount the allegations made by Chief Ball but suggested another interview with Chief Ball stating that a further investigation was fruitless until they discovered something more to go on:

...there is some uncertainty as to what Bands were entitled to have an interest in this Reserve. The Reserve was set aside as a fishing station “for the Indians of the Touchwood Hills and Qu’Appelle Areas” and our first records on the subject show that Poorman’s, Day Star, Muscowequan, Gordon’s, Piapot, Muscowpetung and Pasqua were the Bands falling within the general nomenclature of the establishment. Who decided this is not clear and it is always possible the decision was wrong, but until someone can establish this fact, we have no alternative but to assume these were the proper Bands...

As was pointed out, there is no definite evidence to show either that the surrender was improperly taken or that that the wrong Bands have been sharing the land, and until we have something more definite to go on, it is not seen what further investigation can be made by the Department...

50. Following this interview with Chief Ball by Mr. Jones, Mr. Brown indicated in a memorandum dated February 4, 1955, that although Chief Ball was not completely satisfied with the investigation, there was no point in making a further investigation or inquiries into the propriety of the surrender and who had an interest. He realized it was next to impossible to provide otherwise so he let the matter drop.
51. In February 1958, the question of a long term lease for the remaining lands on the Last Mountain Reserve was raised. Colonel Jones wrote that, when discussion about this was raised with the Piapot Band, they were opposed to the lease and the only question discussed was “to the effect that the surrender, away back in 1918, was obtained under false pretenses, and that Masqua, who was then Chief of the Piapot Band, did not sign the surrender.”

52. In March of 1958, Assistant Regional Supervisor Warden reported on a visit he had made to Piapot concerning the lease of the Last Mountain Reserve where he met with the Chief and Council, as well as 3 elders. He reported little progress because of “their attitude with respect to their contention that the surrender taken in 1918 was not a legal one. They still state the Band members never voted on the surrender as stated in the copies of the documents in our possession.” Warden reported Elder Kiaswatum “stated that a Sports Day held on the Piapot Reserve in July 1916 or 1917, officials from the Regional office endeavored to hold a meeting with the Indians to discuss a surrender of Reserve #80A, but the Indians left the meeting without anything having been accomplished. He said he never voted on any surrender of the land in 1918, nor can he recall a meeting being held for any such purpose.”
53. A letter dated August 15, 1958 from Mr. Jones indicated Colonel Jones referenced similar arguments raised by Piapot where Pat Cappel from Muscowpetung maintained no meeting was held and no vote was taken when the purported surrender of the Last Mountain Reserve occurred in 1918.
54. In May of 1955, the 20 year lease that the Department had entered into on May 22, 1935 with the Village of Regina Beach for 1,207.5 acres was renewed for two successive one year periods, at a rental of \$1,000 per year expiring on May 31, 1957, although representatives at the meeting from Piapot, Muscowpetung, Pasqua, Gordons, Day Star, Muscowequan had suggested a renewal for 1 year at the rental of \$3,000.
55. This lease to the Regina Beach was again renewed in 1958 for a 10 year period, expiring on March 31, 1968 at a rental of \$1,000 per annum, even though the bands with an interest had not reached a consensus on how to proceed. The action by the Department was explained by the Deputy Minister as “Legal authority exist[s] for the leasing of this Reserve under a sale surrender given in 1918, without further consent from the Indians.”

56. The question of the lease renewal again was raised in September of 1967 and Vergette, the Head of Land Surveys and Titles, said legal counsel representing various Indian bands having an interest in the Last Mountain Reserve were challenging the surrender. On April 30, 1968, Regional Director Clark advised the Department several bands were in the process of developing the Kinookimaw Beach Association with the intention of leasing the land from the Department for the purpose of developing and subleasing it out in the best interest of the Indians concerned.
57. As such, the Kinookimaw Beach Association was incorporated on April 21, 1970 by Poorman, Day Star, Gordon, Muskowekwan, Muscowpetung, Piapot and Pasqua. On June 23, 1971, a lease by Kinookimaw Beach Association of the portion of the Last Mountain Reserve which had been formerly leased to the Village of Regina Beach was developed and sent to the Minister for his signature.
58. By letter dated March 23, 1972, Assistant Deputy Minister Ciaccia advised that that lease of the Last Mountain Reserve might be *ultra vires* because of the surrender of those lands was a surrender for sale not lease. He recommended that a new surrender for lease be obtained. A new surrender was thought to clear up any dispute regarding ownership of the reserve. The surrender for lease was obtained by Band Council Resolutions dated June 6, 7 and 8, 1972 passed by Councils from Poorman, Day Star, Gordon, Muskowekwan, Muscowpetung, Piapot and Pasqua Bands requesting the surrender of the Last Mountain Reserve be amended to permit Her Majesty to lease the unsold portion of the reserve to the Kinookimaw Beach Association.
59. The amendment to the 1918 surrender was confirmed by Order-in-Council PC-1973-1731 dated June 19, 1973.
60. On August 10, 1973, a lease was signed by the Department and the Kinookimaw Beach Association commencing July 1, 1973 and continuing until June 12, 2023.

61. Standing Buffalo raises the following additional allegations:
  - a. Canada permitted the unauthorized construction of a roadway across the Last Mountain Reserve;
  - b. Canada failed to obtain compensation from non-Indians hauling water from the Last Mountain Reserve;
  - c. Canada permitted squatters to trespass on the Last Mountain Reserve;
  - d. Canada failed to obtain compensation from campers who enjoyed free camping privileges and who caused damage to the beach and trees;
  - e. Canada failed to arrange adequate leasing arrangements of the Last Mountain Reserve and failed to act in the best interests of the Touchwood Hills and Qu'Appelle Valley Indians by authorizing nominal lease arrangements, without consultation and the consent of the Touchwood Hills and Qu'Appelle Valley Indians;
  - f. Canada entered into grazing leases with 2 individuals at questionable rental rates without consultation and approval of the Touchwood Hills and Qu'Appelle Valley Indians; and
  - g. Canada allowed gravel to be removed without compensation and without consultation and approval from the Touchwood Hills and Qu'Appelle Valley Indians.
  
62. Oral history and physical evidence as to Standing Buffalo's interest in the Last Mountain Reserve exists and supports Standing Buffalo as a claimant:
  - a. Oral traditional knowledge evidence of Elders Wayne Goodwill, Dennis Thorne, Clifford Tawiyaka, Elder Vincent Ryder and Elder Albert Yuzicappi.
  - b. Physical evidence of Standing Buffalo use of the Last Mountain Reserve.

**VIII. BASIS IN LAW (in which Crown is said to have failed to meet or otherwise breached its lawful obligations)**

63. The alleged surrender of the Last Mountain Reserve on March 23, 1918 was not obtained in compliance with the surrender provisions under s. 49 of the *Indian Act*, R.S.C. 1906, c.81, namely, without approval obtained from all Indian bands who had an interest in the Last Mountain Reserve. Without approval obtained from the eligible voting members of the Touchwood Hills and Qu'Appelle Valley Indians including Standing Buffalo, compliance was not obtained in accordance with the surrender provisions of the *Indian Act*.
64. Canada breached its ally-ship relationship and consequential obligations to Standing Buffalo as the surrender was not obtained with the consent of Standing Buffalo despite their clear interest in the reserve.
65. Canada breached its fiduciary obligations by obtaining the surrender of Last Mountain Reserve on March 23, 1918 which was in the best interests of the Touchwood Hills and Qu'Appelle Valley Indians including Standing Buffalo that had an interest in the reserve.
66. Canada breached its fiduciary obligation to the Touchwood Hills and Qu'Appelle Valley Indians including Standing Buffalo by entering into lease arrangements with third parties, contrary to the terms of the surrender on March 23, 1918 of the Last Mountain Reserve. These terms stipulated that the surrendered lands were to be held by the Crown in trust to sell.
67. Canada breached its fiduciary obligations by permitting the construction of a road over the Last Mountain Reserve without lawful authority and without securing compensation for the Touchwood Hills and Qu'Appelle Valley Indians including Standing Buffalo.
68. Canada breached its fiduciary obligations by permitting squatters to trespass on the Last Mountain Reserve.
69. Canada breached a lawful obligation by failing to obtain compensation from campers who enjoyed free camping privileges and who caused damage to the beach and trees.

70. Canada breached its fiduciary obligations by entering into various lease arrangements of land comprised of the Last Mountain Reserve that were inadequate, nominal, questionable in terms of duration, contrary to the terms requested by the Touchwood Hills and Qu'Appelle Valley Indians and contrary to the terms of the surrender, all without consultation and approval of the Touchwood Hills and Qu'Appelle Valley Indians including Standing Buffalo and contrary to their best interests.
71. Canada breached its fiduciary obligation by failing to prevent the removal of gravel from the Last Mountain Reserve without compensation and without consultation and consent of the Touchwood Hills and Qu'Appelle Valley Indians including Standing Buffalo.

DATED at the City of Regina in the Province of Saskatchewan this 17<sup>th</sup> day of October, 2014

PHILLIPS & CO.

Per:



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