

FILE NO.: SCT-7001-12
DATE: 20140227

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
TSLEIL-WAUTUTH NATION)	
)	Stan Ashcroft, for the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	
OF CANADA)	
As represented by the Minister of Indian)	James Mackenzie, Naomi Wright and
Affairs and Northern Development)	Deborah McIntosh, for the Respondent
)	
)	
Respondent)	
)	
)	
)	
)	HEARD: February 25, 2014

ENDORSEMENT

Honourable W. L. Whalen

A Case Management Conference (CMC) was held by teleconference on February 25, 2014, at 12:30 P.M., Eastern Time (Ottawa).

[1] The Parties have agreed on a 1931 Base Value of \$31,148.00 for the 7.73 acres of land in question and of \$7,500.00 for the timber on that land. The Base Value for the land was estimated by an appraiser jointly retained and on the basis of jointly agreed terms of reference. The Claimant has no difficulty with the Base Value of the timber and it agrees that the Base Value for

the land is valid on the basis of one approach to land appraisal. However, the Claimant believes that there is a second approach in the way of calculating the Base Value of the land that takes into account certain events of the time that were not considered adequately or at all in the joint valuation or by the Department of Indian Affairs at the time, such as the impact of the Great Depression. Accordingly, the Claimant has retained Rod Cook of Kent-Macpherson Appraisals to conduct another appraisal which is expected to be completed by March 31, 2014

[2] If the Claimant intends to rely on Mr. Cook's report, it shall serve the Respondent with a copy of that report before the next CMC. The Respondent will then consider whether it will be necessary to engage an expert to respond to the report. If the Claimant pursues an alternative approach to calculating a Base Value, the Respondent indicated it might seek a determination of the meaning of "market value" as used in Section 20(1)(e) of the *Specific Claims Tribunal Act*, and as to which approach is the proper one to be used in a compensation phase of a hearing. This is in itself a unique and important legal question. Whether such a hearing should be conducted or when cannot be determined until the Cook report has been completed, produced to the Respondent and the Respondent has had an opportunity to consider it.

[3] All of the Claimant's trust records in the Respondent's possession and control have been produced. Two or so years of records were inadvertently destroyed some time ago. The Parties have jointly engaged Joan Holmes & Associates to tabulate, summarize and categorize these trust records. They anticipate that this work will be completed by March 31, 2014, at which time the Parties expect to be able to produce a Common Book of Documents with relative ease and speed.

[4] Once the Joan Holmes & Associates' report on the trust records is available, and depending on the Claimant's position on the calculation of the land's Base Value, each party intends to retain experts in respect of bringing the Base Values forward.

[5] The next CMC shall be held on Tuesday April 29, 2014, at 2:00 P.M. Eastern Time (Ottawa) to review progress on the issues discussed on Tuesday February 25, 2014.

W. L. WHALEN

Honourable W. L. Whalen
Specific Claims Tribunal Canada