

**FILE NO.:** SCT-3002-11  
**DATE:** 20150914

**SPECIFIC CLAIMS TRIBUNAL  
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

<b>BETWEEN:</b>	)	
	)	
BIG GRASSY	)	
(MISHKOSIIMIINIIZIIBING) FIRST	)	Donald R. Colborne, for the Claimant
NATION (INDIAN BAND)	)	
	)	
	)	
Claimant	)	
	)	
<b>- and -</b>	)	
	)	
HER MAJESTY THE QUEEN IN RIGHT	)	Lisa Cholosky, for the Respondent
OF CANADA	)	
As represented by the Minister of Indian	)	
Affairs and Northern Development	)	
	)	
	)	
Respondent	)	
	)	
	)	<b>HEARD:</b> September 8, 2015

**ENDORSEMENT**

**Honourable W.L. Whalen**

A Case Management Conference (CMC) was held by teleconference on September 8, 2015, at 2:00 P.M. Eastern Time (Ottawa).

[1] The Parties reported that they were close to resolving the question of a proposed amendment of pleadings. They expect to resolve it within the next few weeks. Progress will be reviewed at the next CMC.

[2] The Respondent takes objection to the inclusion of a document in the Common Book of Documents on the ground of settlement privilege. The Parties agree that the question may be resolved through agreement of the Agreed Statement of Facts after the expert reports have all been received and reviewed. This is a practical approach that the Parties agree may save time and resources. The Respondent does not waive its position on settlement privilege. If the matter cannot be resolved as suggested, the Respondent will have the option of commencing an Application to determine the question. Accordingly the matter will be held in abeyance for the time being.

[3] The Claimant reported that its expert reports on materials (by Mr. John Balkwill) and present value/carry forward (by Dr. Carl Beal) have been produced to the Respondent. However, the historical expert's report (by Tim Holzkamm) has been delayed by his ill health. The Claimant has been unsuccessful in reaching Mr. Holzkamm. The matter will be reviewed at the next CMC.

[4] The Parties reported that some work had been done on the Agreed Statement of Facts and that they are working cooperatively. However, the Agreed Statement of Facts cannot be completed until the experts' reports have all been received.

[5] The Respondent reported that it had started the process of engaging three experts of its own. However, the work of two of the three cannot likely be completed until Mr. Holzkamm's report has been received. The Respondent observed that it might object to the admissibility of all or part of Mr. Holzkamm's report. The Respondent also expressed concern about Mr. Balkwill's expertise but will require the advice of its own expert in that regard. The progress of expert reports and related issues will be reviewed at the next CMC.

[6] The Respondent reported that the process of written interrogatories could not proceed until Mr. Holzkamm's report has been produced. The Parties agreed that the Respondent might examine a representative of the Claimant for the purpose of discovery in writing, with questions to be provided after the Respondent has received the last of the Claimant's three expert reports. If those reports are received by October 26, 2015, the Respondent's questions will be provided

by December 1, 2015. If the reports are received after October 26, 2015, the Respondent's questions will be provided within 30 days of receiving the last of the Claimant's expert reports. The status of written interrogatories, including whether the Claimant intends to seek discovery in the same manner, will be reviewed at the next CMC.

[7] The Parties remain divided on whether the Claim should be bifurcated. The Claimant opposes bifurcation and the Respondent supports bifurcation. The Respondent will seek instructions on whether it intends to make an Application for bifurcation and report at the next CMC.

[8] The Respondent provided the Claimant with a draft Oral History Protocol that the Claimant has not had sufficient time to consider. The question of oral history evidence will be considered at the next CMC.

[9] The next CMC will be held by teleconference on **December 15, 2015**, at 12:00 P.M. Eastern Time (Ottawa).

W.L. WHALEN

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Honourable W.L. Whalen