

FILE NO.: SCT-3002-11
DATE: 20160517

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
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BIG GRASSY)	
(MISHKOSIIMIINIIZIIBING) FIRST)	Donald R. Colborne, for the Claimant
NATION (INDIAN BAND))	
)	
)	
Claimant)	
)	
- and -)	
)	
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)	
)	
)	HEARD: April 12, 2016

ENDORSEMENT

Honourable W.L. Whalen

A Case Management Conference (CMC) was held by teleconference on April 12, 2016, at 11:30 A.M., Eastern Time (Ottawa).

[1] The Parties reported that an Amended Declaration of Claim was filed on March 30, 2016 and an Amended Response to the Declaration of Claim was filed on April 6, 2016.

[2] The Respondent reported that it was in the process of retaining one or more experts to respond to the Claimant's experts, whose reports have been produced. The Respondent also reported that it was in the process of retaining Professors Kirzner and Booth to prepare an expert compensation carry forward report, if necessary. Progress on these retainers will be reviewed at the next CMC.

[3] The Claimant gave notice that it may require preparation of supplementary expert reports pursuant to Rule 87 of the *Specific Claims Tribunal Rules of Practice and Procedure* depending on the opinions expressed by the Respondent's expert.

[4] The Respondent indicated that it would bring an application for bifurcation of the proceeding into two phases, the first to determine validity and historic value (if appropriate), and the second to determine compensation, if the matter proceeds that far. The application cannot be filed until an affidavit from Professor Kirzner or Booth is prepared explaining why a finding on historical value is a necessary pre-condition for them to be able to prepare their report. The affidavit cannot be prepared until the Professors have been formally retained. Progress on this issue will be reviewed at the next CMC. The Claimant confirmed that it will oppose an application for bifurcation and will respond to an application, if and when brought.

[5] While the Respondent has abandoned the written interrogatory process in respect of the Claimant's expert reports, the Claimant indicated that it may wish to use the interrogatory process in respect of the Respondent's expert reports once produced.

[6] The Parties are still at odds in respect of whether to hold a separate hearing to receive oral history or whether such evidence should be received at the main hearing. The Respondent would prefer a separate oral history evidence hearing and the Claimant is opposed. Before any oral history evidence can be received, it is necessary to file an Oral History Protocol. The Respondent had drafted a proposed Protocol that presumed a separate oral history hearing, which the Claimant opposed. The Respondent will redraft the Protocol by removing this presumption. The Parties agreed to discuss and negotiate the development of an Oral History Protocol on that basis. The matter will be reviewed at the next CMC.

[7] The next CMC will be held by teleconference on **July 4, 2016**, at 12:00 P.M., Eastern Time (Ottawa).

W.L. WHALEN

Honourable W.L. Whalen