

**FILE NO.:** SCT-7005-11  
**DATE:** 20180927

**SPECIFIC CLAIMS TRIBUNAL  
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

<b>BETWEEN:</b>	)	
	)	
POPKUM FIRST NATION	)	
	)	Allan Donovan, for the Claimant
	)	
Claimant	)	
	)	
<b>– and –</b>	)	
	)	
HER MAJESTY THE QUEEN IN RIGHT	)	
OF CANADA	)	
As represented by the Minister of Indian	)	Rosemarie Schipizky, Erin Tully and Aneil
Affairs and Northern Development	)	Singh, for the Respondent
	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	<b>HEARD:</b> September 25, 2018

**ENDORSEMENT**

**Honourable Paul Mayer**

A Case Management Conference (CMC) was held by teleconference on September 25, 2018, at 4:30 P.M., Eastern Time (Ottawa).

[1] The Tribunal has reviewed the briefs submitted by the Claimant dated September 17, 2018 and by the Respondent dated September 18, 2018. These briefs request that a compensation hearing date be set at the earliest convenience of the Tribunal.

[2] By joint letter dated February 2, 2018, the Parties had advised the Tribunal as follows:

On January 22, 2018, Canada, Popkum First Nation, and the six other First Nations met and have reached a framework for settlement (subject to approval by the required authorities on both sides). The parties and the six other First Nations continue to diligently work together to reach a negotiated settlement of this matter.

[3] The Claimant's brief dated September 17, 2018 indicates as follows at paragraph 11: "The Respondent has sought a settlement mandate, but does not yet have one. The Respondent cannot advise when, or even whether, a settlement mandate is expected". The Tribunal considers that this is not transparent.

[4] The Tribunal is mandated to ensure proper case management so that cases move forward diligently, in accordance with the requirements of good faith, transparency, and proportionality in terms of both cost effectiveness and the time required to reach a conclusion on a claim. That mission will not be accomplished by rekindling the litigation process simply because the Respondent is being opaque by not advising when or whether it will obtain a mandate to settle this Claim.

[5] The inability of the Respondent to obtain a mandate in a timely manner is causing stress and frustration with the negotiation process and the reconciliation process, and is not cost effective.

[6] The legal fees and disbursements required to litigate including those needed to update the numerous expert reports is a waste of scarce resources.

[7] More clarity is required with respect to the Respondent's mandating process. The Tribunal is considering issuing an order pursuant to subsection 13(1) of the *Specific Claims Tribunal Act*, SC 2008, c 22 to require the Respondent to provide the Claimant and the Tribunal with an update within 30 days as to where the file is within the Respondent's settlement approval process and when a decision might be expected. Given the Respondent's inability to address this, the Tribunal has scheduled a CMC to provide it with an opportunity to consider and respond to the Tribunal's proposed order.

[8] Should a compensation hearing be required, the Parties indicated that they and their experts are all available the weeks of February 18-22, 2019 and February 25-March 1, 2019. The hearing would be held partially in Toronto, to accommodate the Parties' bring forward experts, and partially in Vancouver.

[9] The next CMC will be held by teleconference on **October 10, 2018**, at 4:30 P.M., Eastern Time (Ottawa).

PAUL MAYER

---

Honourable Paul Mayer