

SPECIFIC CLAIMS TRIBUNAL	
F I L E D	TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES
	May 14, 2019
	Isabelle Bourassa
Ottawa, ON	110

SCT File No. SCT-1001-12

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

**MADAWASKA MALISEET FIRST NATION**

Claimant

and

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA  
as represented by the Minister of Indian Affairs and Northern Development**

Respondent

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**NOTICE OF APPLICATION**

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THIS APPLICATION is advanced jointly by the parties to be heard by the Tribunal member who presides over the next case management conference, at a date and time to be set by the Tribunal member.

The parties seek the following relief:

1. An additional stay of proceedings for a period of one year beginning on May 17, 2019 to allow the parties to finalize a settlement of the above noted claim.

THE PARTIES rely on the following grounds in support of their application:

1. Rule 11 of the *Specific Claims Tribunal Rules of Practice and Procedure*, which provides for the request of adjournments.
2. Practice Direction #15 which sets out the requirements for a stay of proceedings when the parties have entered into a written agreement to enter negotiations for the resolution of a claim.

3. The parties entered into a written Negotiation Protocol Agreement on April 25, 2018. A copy of which was filed as Appendix "E" to the previous joint case management brief dated May 8, 2018.
4. The parties were granted two stays of proceedings by Mr. Justice Mayer on May 16, 2018, and on November 22, 2018.
5. Since the previous joint application dated November 16, 2018, the parties have been working towards a settlement. Since then, the parties have taken the following steps:
  - i. Meetings between the parties were held on February 27, 2019 and April 16, 2019.
  - ii. From August, 2018 until January 2019, the Claimant worked on a comprehensive updated Global Proposal, consisting of three reports commissioned to value the claim. The Global Proposal package was submitted by mail to the Respondent on January 23, 2019.
  - iii. Unfortunately, the Claimant's expert passed away shortly after completing the reports. Extra time to present the Global Proposal was required, in order for the expert's colleagues to familiarize themselves with the reports.
  - iv. On February 27, 2019 the Claimant presented their Global Proposal for settlement to the Respondent in person.
  - v. On April 16, 2019 the Respondent verbally counter offered the Claimant's proposal. This counter offer was preliminary and without prejudice, as no official settlement mandate was approved. On April 17, 2019, via email from the Claimant to the Respondent the terms were conditionally agreed upon.
  - vi. The Respondent is now in the process of seeking a settlement mandate. This will require seeking authority outside of CIRNAC. Once the authority is granted, a formal settlement offer will be made.
  - vii. The Respondent noted that there is an upcoming Federal Election which could very likely stall the mandating processes. This would mean that authority to settle could be granted only after the fall election, after which an offer would follow.
  - viii. With reference to the Specific Claims Negotiation Process flow chart that was filed as Appendix C to the last case management brief, the parties are now at Step 5 of the negotiation process. Although, nothing will be official until a letter of offer is presented and accepted, the process is ongoing. The Claimant and the Respondent will work on drafting the

settlement agreement and any trust agreements required and will also prepare for the ratification.

6. Now that the parties have reached an agreement in principle on settlement, the parties will attempt to move to the next steps of the process as quickly as possible, given government restraints from a federal election.
7. The parties wish to continue their efforts at reaching a settlement.

All of which is respectfully submitted.

Dated: May 14, 2019



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