

FILE NO.: SCT-5004-11
DATE: 20140219

**SPECIFIC CLAIMS TRIBUNAL
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

BETWEEN:)	
)	
KAHKEWISTAHAW FIRST NATION)	Stephen M. Pillipow and Adam Touet, for
)	the Claimant
)	
Claimant)	
)	
– and –)	
)	
HER MAJESTY THE QUEEN IN RIGHT)	Lauri Miller and Donna Harris, for the
OF CANADA)	Respondent
As represented by the Minister of Indian)	
Affairs and Northern Development)	
)	
)	
Respondent)	
)	
)	
)	
)	HEARD: February 18, 2014

ENDORSEMENT

Honourable W.L. Whalen

A Case Management Conference (CMC) was held by teleconference on February 18, 2014, at 11:00 A.M., Eastern Time (Ottawa).

[1] The Claimant reported that the First Nation’s expert has discovered gaps in the documentary record. As a result, the Respondent conducted further research and found previously undiscovered

Band Council Resolutions and Orders in Council that have now been produced. It appears that documentary production is complete.

[2] The Claimant's expert has compiled all of the documents for the purpose of creating a Common Book of Documents. The Parties reported that they have been working co-operatively, but that a Common Book of Documents cannot be completed until the Agreed Statement of Facts has been finalized. Only then will it be possible to determine what documents will be necessary for the hearing. The Claimant has received a Draft Agreed Statement of Facts from the Respondent. They are reviewing it and expect to respond to the Respondent by the end of March, 2014.

[3] The Claimant has prepared a spreadsheet of the expenditures in issue and have proposed classifications for those expenditures. The spreadsheet has been delivered to the Respondent with a request that it attempt to agree on the proposed classifications. Expenditures of First Nation trust funds required certain authorizations under the *Indian Act* and the Claimant is alleging that many of the expenditures were made without the required authorization. Ultimately, the Claimant will attempt to match Orders in Council and Band Council Resolutions with expenditures. The Claimant is hoping that the Parties might agree on the classifications for the various expenditures or identify areas of disagreement so that areas of dispute may be better focused and the hearing process shortened. The Parties agreed to review the Claimant's proposed classification approach with a view to streamlining the final hearing process on the myriad of expenditures in question over the long period of time involved. The Parties shall report their progress at the next CMC.

[4] The Claimant plans to file expert reports prepared by Joan Holmes & Associates and by Dorothy Lockhart. The reports have been served on the Respondent and filed. The Respondent requires the presentation of the authors of those reports at the hearing for purposes of cross-examination pursuant to Rule 93 of the SCTA. The Claimant does not presently know who will be appearing in respect of the Joan Holmes & Associates Report but will identify that individual to the Respondent before a hearing date is set. The Claimant also proposes to file and rely on a report prepared by Patricia Zacharias. This is a lengthy report that the Respondent questions as to relevance. The Claimant will identify the portions of the report it intends to rely on and the relevance of those portions to the claims and relief that are the subject of this proceeding. The matter shall be reconsidered at the next CMC.

[5] The Respondent proposes to call one lay witness, namely Sherry Daniels. The Respondent shall provide the Claimant with a will-say of the proposed witness' anticipated testimony before a hearing date is set. The Respondent also anticipates calling an expert on the issue of present valuation if the Claimant is successful on validity.

[6] The Claimant did not anticipate that the claim would be bifurcated. However, the Tribunal questioned whether present valuation could be achieved without a ruling on the validity of the claim and a determination of the resulting amount. The Parties agreed to review this question for further consideration at the next CMC.

[7] The Parties do not propose to call oral history evidence.

[8] The Claimant proposes that the hearing be in the community and the Respondent does not disagree. The Claimant will provide the Registry with a contact in the community who can inform the Tribunal of proposed hearing facilities and accommodation.

[9] The Registry will contact the Parties with respect to scheduling the next CMC.

W.L. Whalen

Honourable W.L. Whalen
Specific Claims Tribunal Canada