

**FILE NO.:** SCT-7007-13

**DATE:** 20191118

**SPECIFIC CLAIMS TRIBUNAL  
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

<b>BETWEEN:</b>	)	
	)	
2AQ'AM	)	
	)	Darwin Hanna, Caroline Roberts and Kirk
	)	Gehl, for the Claimant
Claimant	)	
	)	
<b>– and –</b>	)	
	)	
HER MAJESTY THE QUEEN IN RIGHT	)	
OF CANADA	)	
As represented by the Minister of Indian	)	James M. Mackenzie and Whitney Watson,
Affairs and Northern Development	)	for the Respondent
	)	
	)	
Respondent	)	
	)	
	)	
	)	<b>HEARD:</b> November 12, 2019

**ENDORSEMENT AND ORDER**

**Honourable Harry Slade, Chairperson**

A Case Management Conference (CMC) was held in person on November 12, 2019, at 12:00 P.M., at the Canada Industrial Relations Board, 300 West Georgia Street, Vancouver (Pacific Time).

[1] The Respondent reported that it is prepared to continue with negotiations but before completing settlement, the issue of who the beneficiaries of the subject lands are (beneficiary issue) will need to be resolved. The Parties have exchanged positions on this issue and have

reached an impasse. The Parties agreed that the other aspects of the negotiations continue productively.

[2] The Tribunal understood the beneficiary issue to refer to the question of who the Indigenous beneficiaries of the disputed lands were when the breaches of fiduciary duty occurred that the Respondent admitted to in the Consent Order on validity.

[3] The Claimant reported that it is very concerned about this issue being raised after the Consent Order on validity was issued. The Claimant is opposed to the involvement of any other First Nations in compensation negotiations for this Claim and is of the view that they are the only group interested in subject lands. The Claimant has begun to take steps on a community basis to reach an internal understanding among local First Nations on the issue. The Claimant's counsel noted that he has a professional relationship with some but not all of the First Nations that the Respondent appears to believe it owes duties as potential beneficiaries, and is not counsel of record for any other First Nation on this matter.

[4] The Respondent confirmed that the First Nations of concern were those that received Notices pursuant to section 22 from the Tribunal for this Claim in 2015.

[5] The Respondent requested leave to bring an Application for a determination by the Tribunal of the beneficiary issue.

[6] The Tribunal noted that, given the Consent Order on validity, and given that negotiations have commenced, negotiations should continue in good faith without first having to resolve the beneficiary issue by order of the Tribunal.

[7] The Parties reported that they continue to pursue Joint Terms of Reference for their experts and their appraisers are in place. The Claimant expects to deliver its expert report to the Respondent in mid-January 2020.

[8] The Respondent expressed concern about its obligations to other First Nations and would like to give notice to them of the issues arising in this Claim within the next three weeks. The Claimant would like notice of the timing of any such communications so that it can also communicate with the recipients.

**THE TRIBUNAL ORDERS THAT:**

[9] The Respondent is granted leave, subject to paragraph 10 below, to file and serve an Application for determination of the beneficiary issue;

[10] The Application will not be set down for hearing until the Claimant has had a reasonable period of time to investigate and resolve the matter of beneficial interests that may be asserted by other First Nations;

[11] The Respondent's intended letters of notice to potentially affected First Nations who have received Notices pursuant to section 22 from the Tribunal may be sent on or before **December 6, 2019**. If the Respondent decides to send such notices, the Respondent will inform the Claimant at least ten days in advance of the notices being sent, and will inform the Claimant of the identities of the recipients at least five days in advance of the notice being sent; and,

[12] The next CMC will be held by teleconference on **February 11, 2020**, at 2:00 P.M., Eastern Time (Ottawa). The Parties will report generally on the status of settlement negotiations, and hearing related preparations. The Claimant will report on efforts and status of efforts to engage with First Nations of concern to the Respondent as potential beneficiaries.

HARRY SLADE

---

Honourable Harry Slade, Chairperson