

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

SUNCHILD FIRST NATION

Claimant

v.

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

Respondent

F I L E D	SPECIFIC CLAIMS TRIBUNAL TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES	D É P O S É
	September 20, 2012 Amy Clark	
Ottawa, ON		5

RESPONSE

**Pursuant to Rule 42 of the
*Specific Claims Tribunal Rules of Practice and Procedure***

This Response is filed under the provisions of the *Specific Claims Tribunal Act* and the *Specific Claims Tribunal Rules of Practice and Procedure*.

TO: Neil Reddekopp / Tarlan Razzaghi
Ackroyd LLP
Solicitor for the Claimant
1500, 10665 Jasper Avenue
Edmonton, AB T5J 3S9

Phone (780) 423-8905
Fax (783) 423-8946
Email nreddekopp@ackroydlaw.com

1. This is the response of Her Majesty the Queen in right of Canada, as represented by the Minister of Indian Affairs and Northern Development (the "Crown") to the

Declaration of Claim (the “Claim”) filed by the Sunchild First Nation (“SFN”) with the Specific Claims Tribunal (the “Tribunal”) on July 18, 2012 pursuant to the *Specific Claims Tribunal Act* (the “Act”).

2. The Claim relates to land owed to the SFN pursuant to the terms of Treaty No. 6 (treaty land entitlement or “TLE”).

I. Status of Claim (R. 42(a))

3. The SFN submitted a claim to the Minister on November 10, 2006, asserting that the Crown has failed to provide SFN with its full TLE pursuant to the terms of Treaty 6 (“TLE Claim”). Contrary to the assertion of the Claimant at paragraph 3 and as set out in paragraph 5 of the Claim, the TLE claim was deemed to have been filed with the Minister on October 16, 2008, pursuant to s. 42(1) of the Act.
4. The Crown states that the criteria contained in section 16(1)(a) of the Act are met and this claim is validly before the Specific Claims Tribunal.

II. Validity (R. 42(b) and (c))

5. The Crown does not accept the validity of the Claim, or that the SFN has suffered any damages.
6. In the alternative, paragraph 20(1)(c) of the Act may provide a basis for the Tribunal to award compensation in respect of the claim.

III. Allegations of Fact – Declaration of Claim (R. 41(e)); Acceptance, denial or no knowledge (R. 42(d))

7. The Crown admits the facts set out in paragraph 16 of the Claim.
8. The Crown states that with respect to paragraph 9, 17 and paragraphs 20 to 29, the statements made are legal argument.

9. The Crown denies the statements made in paragraphs 18 and 19 of the Claim.
10. With respect to paragraph 10, the Crown admits only that Chief Louis Sunchild adhered to Treaty No. 6 on May 25, 1944 on behalf of the Sunchild First Nation. The remaining statements are irrelevant to the Claim and the Crown does not admit these statements.
11. With respect to paragraph 11, the Crown admits that it prepared a payroll for the SFN for the purposes of paying annuities as required by Treaty No. 6 and this payroll was used to assist in calculating the TLE of the SFN. The remaining statements constitute an interpretation of facts combined with legal argument. The Crown denies these statements.
12. With respect to paragraph 12, the Crown admits only that:
 - a. The term of Treaty No. 6 is quoted accurately; and
 - b. Treaty No. 6 creates an obligation of the Crown to reserve lands for the SFN in accordance with the terms thereof.
13. With respect to paragraph 13, the Crown admits that between May 22, 1945 and September 11, 1945, surveyor Charles Dudley Brown, surveyed certain lands in the foothills region of Alberta on the Baptiste River to be set aside as a reserve for the SFN pursuant to their TLE.
14. With respect to paragraph 14, the Crown admits that Alberta authorized the transfer of 12,894 acres of land to Canada for the purposes of setting aside TLE land for the SFN. The Certificate of Title to these lands issued to the Dominion of Canada on July 4, 1949.
15. With respect to paragraph 15, the Crown admits only that by Order in Council OCPC 4661, dated September 13, 1949, Sunchild Indian Reserve 202 containing 12,894 acres was designated and set aside for the SFN. The Crown expressly denies that this was “in partial satisfaction of Canada’s TLE obligations”.

16. In further response to paragraphs 17 and 21 to 26, the Crown does not accept the calculation of the TLE nor the calculation of the shortfall.

IV. Statements of Fact (R. 42(a))

17. It is a term of Treaty no. 6 that reserves be allocated to the signatories thereto of a sufficient area to allow one square mile (640 acres) for each family of five persons, or in that proportion for larger or smaller families (“the treaty land entitlement or TLE”). This works out to 128 acres per eligible person.
18. A reserve for the SFN was first surveyed in 1945 (the “date of first survey”) and 12,894 acres of land were designated as Sunchild Indian Reserve 202 and set aside for the SFN by Order in Council OCPC 4661.

V. Relief (R. 42(f))

19. The Crown seeks to have the claim dismissed in its entirety.
20. The Crown seeks its costs in the proceedings.
21. If the Tribunal finds that the Crown failed to set aside sufficient land for the First Nation as required by the terms of Treaty No. 6, then the Crown asserts that the Province of Alberta contributed to the acts or omissions and any losses arising therefrom, as set out in paragraph 20(1)(i) of the Act.
22. The Crown pleads and relies upon section 20 of the Act.
23. Such further relief as this Honourable Tribunal deems just.

VI. Communication (R. 42(g))

24. Respondent’s Address for Service:

Ursula M. Tauscher
Department of Justice Canada
300, 10423 – 101 Street

Edmonton, Alberta T5H 0E7
Phone (780) 495-7153

Fax Number Address for Service: (780) 495-2964

Email Address for Service: ursula.tauscher@justice.gc.ca

Dated this 20 day of September, 2012.

Myles J. Kirvan
Deputy Attorney General of Canada



Ursula M. Tauscher
Solicitor for the Respondent
Department of Justice Canada