

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

SPECIFIC CLAIMS TRIBUNAL	
TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES	
April 15, 2016	
David Burnside	
Ottawa, ON	27

WE WAI KAI NATION

Claimant

v

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

Respondent

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**AMENDED RESPONSE**  
**to the**  
**AMENDED DECLARATION OF CLAIM**  
**Pursuant to Rule 42 of the**  
***Specific Claims Tribunal Rules of Practice and Procedure***  
**and the Tribunal's direction dated March 10, 2016 at paragraph 3**

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This Amended Response is filed under the provisions of the *Specific Claims Tribunal Act* and the *Specific Claims Tribunal Rules of Practice and Procedure* and the Tribunal's direction dated March 10, 2016 at paragraph 3.

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**I Claimant**

1. The Respondent, Her Majesty the Queen in right of Canada (Canada), admits that the Claimant, the We Wai Kai Nation, also known as the Cape Mudge Band, is a First Nation within the meaning of s 2 of the *Specific Claims Tribunal Act (Act)*.
2. Canada admits that the We Wai Kai Nation is the successor Indian band of the Laich kwil tach (Euclataw) Indians in connection with the Drew Harbour Indian reserve.

**II Conditions Precedent**

3. Canada admits the allegations of fact in paragraphs 3 to 5 of the Amended Declaration of Claim.

**III The Claim Is Not a Valid Claim**

4. Canada's position is that the claim made in the Amended Declaration of Claim is not a valid claim.

**IV The Establishment of Drew Harbour Indian Reserve**

5. Following British Columbia's entry into Confederation in 1871, Canada lacked the sole authority to allot, set aside, or create reserves in British Columbia. The allotment and creation of reserves required the cooperation of the provincial Crown because the provincial Crown held underlying title to the lands upon which reserves were to be established.
6. Canada denies the allegations of fact in paragraph 8 of the Amended Declaration of Claim.

76. Canada admits the allegations of fact in paragraph 9 of the Amended Declaration of Claim.
87. In 1880, the provincial Chief Commissioner of Lands and Works (CCLW) and the federal Indian Superintendent for British Columbia agreed on Peter O'Reilly as the new Indian Reserve Commissioner. The Governor in Council, by PC OIC 1880-1334, dated July 19, 1880, approved the appointment of Peter O'Reilly, a County Court Judge and Stipendiary Magistrate, to act as sole commissioner (Reserve Commissioner O'Reilly or O'Reilly) on the then Indian Reserve Commission.
98. Under the terms of PC OIC 1880-1334, Reserve Commissioner O'Reilly was to act in his own discretion "in furtherance of the joint suggestions" of the provincial Chief Commissioner of Lands and Works (CCLW) and the federal Indian Superintendent for British Columbia "as to the particular places to be visited and ~~the~~ Reserves to be established". "The action of [Reserve Commissioner O'Reilly] should in all cases be subject to confirmation" by these same officers on behalf of their respective governments and, failing their agreement, should be referred for settlement to the Lieutenant Governor of British Columbia.
108. On August 9, 1880, the Deputy Superintendent General of Indian Affairs issued a memorandum of instructions (O'Reilly's Instructions) to Reserve Commissioner O'Reilly's duties stating that "In allotting Reserve lands to each Band you should be guided generally by the spirit of the terms of Union between the Dominion and local Governments which contemplated a 'liberal policy' being pursued towards the Indians. You should have special regard to the habits, wants and pursuits of the Band, to the amount of territory in the Country frequented by it, as well as to the claims of the White settlers (if any)." consist mainly in ascertaining accurately the requirements of the Indian Bands in that Province, to whom lands have not been assigned by the late Commission, and allotting suitable lands to them for tillage and grazing purposes"

119. Reserve Commissioner O'Reilly exercised powers granted pursuant to an exercise of federal Crown prerogative powers. Contrary to the We Wai Kai Nation's assertion in paragraph 26 a) of the Amended Declaration of Claim, the reserve approval mechanism set out in PC OIC 1880-1334 appointing O'Reilly was not a statutory process. PC OIC 1880-1334 was an exercise of federal prerogative powers, not an exercise of statutory powers.

1240. In response to paragraphs 10 and 11 of the Amended Declaration of Claim, Canada admits that:

- a) on August 28, 1884 Mr. E. Priest (Priest) carried out a field survey of Rebecca Spit for Mr. J. Miller; and
- b) Priest's field survey notes indicate that the shoreline of Rebecca Spit was unbroken and there was no passage or other interruption in the shoreline.

Canada does not know whether Priest's field survey was made at high tide. Canada denies the other allegations of fact and further in response states that Priest's field survey notes:

- c) note the existence of an unidentified "Indian Reserve";
- d) indicate that Priest surveyed along the line of coast around Rebecca Spit following the high water mark; and
- e) indicate that Priest surveyed a line across the base of Rebecca Spit, as the southern boundary line for the Rebecca Spit lot, which lot ~~was at that time, or~~ later became Lot 33, and placed survey posts (Priest's Survey Posts) at the west and east ends of the line.

In additional response, Canada states that:

- f) Mr. J. Miller was a “White settler” within the meaning of PC OIC 1880-1334 O’Reilly’s Instructions; and
- g) ~~in addition,~~ under the *Lands (Crown Amendment) Act*, SBC 1879, c 21, s 8, and the *Crown Lands Act* SBC 1884, c 16, in force February 18, 1884 (1884 *Crown Lands Act*), s 70, each under the heading “System of Surveys” at paragraphs 17, 18 and 19, Priest was required to, and did, thoroughly blaze the boundary line through timber up to 12 feet wide and mark bearing trees for each survey post.

1311. In response to paragraph 12 of the Amended Declaration of Claim, Canada admits that by letter dated October 29, 1886, Reserve Commissioner O’Reilly provided the CCLW with a Minute of Decision and attached rough sketch for his information and recommended a proposed unsurveyed Drew Harbour Indian reserve (Proposed Unsurveyed Drew Harbour Indian reserve). Canada denies the other allegations of fact except where expressly admitted in this Amended Response. Further in response Canada states that:

- a) O’Reilly visited the Laich kwil tach (Euclataw) Indians, including the We Wai Kai Nation on the 5th October, and following days. He did not succeed in meeting any considerable number of the Laich kwil tach (Euclataw) Indians, yet at each village that he visited, including the winter village of the We Wai Kai Nation on what became the proposed Cape Mudge Indian reserve, a few members were present and he explained that he was there to consult with them as to their requirements for Indian reserves. With their assistance, he proposed 10 reserves for the Laich kwil tach (Euclataw) Indians including the Proposed Unsurveyed Drew Harbour Indian reserve.
- b) to the extent that the rough sketch and Minute of Decision, taken together, set out a definite plot of land that was proposed to be the Indian reserve, then the rough sketch indicates that the Proposed Unsurveyed Drew Harbour Indian reserve’s

northernmost boundary was to be in the base of Rebecca Spit where a “passage” coloured blue is noted; and

- ca) O’Reilly estimated the size of the Proposed Unsurveyed Drew Harbour Indian reserve was a reserve of 210 acres, mostly on the southern shore of situated on Drew Harbour, allotted to the Laich kwil tach (Euelataw) Indians. It was chiefly used by the We Wai Kai Nation when working in the neighbouring logging camps. The soil was poor and the timber small though straight, and of good quality; and
- d) O’Reilly did not see Priest’s Survey Posts, blazed boundary line and marked bearing trees from 1884.

1412. Canada admits the allegations of fact in paragraph 14 of the Amended Declaration of Claim, that by notice published in the B.C. Gazette on November 4, 1886, William P. Sayward (Sayward), gave notice of his intention to apply for permission to purchase Rebecca Spit from the provincial Crown. Further in response, Canada states that:

- a) Sayward’s notice was dated October 26, 1886; and
- b) Sayward was a “White settler” within the meaning of PC OIC 1880-1334 O’Reilly’s Instructions.

1513. In response to the allegations of fact in paragraph 13 of the Amended Declaration of Claim, Canada admits that on November 5, 1886 the CCLW, acting under PC OIC 1880-1334, purported to preliminarily approve the Proposed Unsurveyed Drew Harbour Indian reserve, as set out in the rough sketch and Minute of Decision. Canada denies the other allegations of fact. Further in response, Canada states that the CCLW was not aware that there was any overlap or potential overlap between the Proposed Unsurveyed Drew Harbour Indian reserve and the “white settler” interests.

1614. On January 6, 1887, Sayward applied to purchase the Rebecca Spit lot from the provincial Crown under s 30 of the 1884 Crown Lands Act. Sayward's application was for 54 acres of land that became Lot 33. Sayward paid a 10 % deposit of \$13.50.
1715. Canada ~~denies~~ admits the allegations of fact in paragraph 15 of the Amended Declaration of Claim that on January 29, 1887, the Surveyor General for British Columbia plotted Priest's survey. In further response, Canada states that ~~on~~ at some time before January 29, 1887 Priest prepared a survey plan of the Rebecca Spit lot from his 1884 field survey notes. On or about January 29, 1887, the Surveyor General for British Columbia assigned the lot number Lot 33 to the lot Sayward was applying to purchase.
1816. Canada admits the allegations of fact in paragraph 16 of the Amended Declaration of Claim. On February 10, 1888, the provincial Crown granted Lot 33, the Rebecca Spit lot. Further in response, the provincial Crown granted Lot 33 to Sayward under the 1884 Crown Lands Act in consideration of the payment by Sayward of the sum of \$135.
1917. In response to the allegations of fact in paragraph 17 of the Amended Declaration of Claim:
- a) Canada admits that Canada did not protest any alleged overlap, between Lot 33 or what became Lot 33 and the Proposed Unsurveyed Drew Harbour Indian reserve;
  - b) Canada denies that there was any such overlap, or any such definite overlap;
  - c) in the alternative that there was an overlap, and the overlap came to Reserve Commissioner O'Reilly and the Indian Superintendent of British Columbia's attention, then:
    - i) this would have come to their attention after the February 10, 1888 provincial Crown grant of Lot 33 to Sayward. Canada's practice was to check into Crown grants at the provincial Lands and Works Department at

the time of allotment and at the time of survey. Canada was not aware of any overlap until after the provincial Crown grant, by which time it was too late for Canada to ask the CCLW to not allow the Crown grant. In particular,:

A) any claimed interest that the We Wai Kai Nation had in the lands in any overlap was subject to previously-acquired rights under the 1884 Crown Lands Act and its predecessor legislation; and

B) Reserve Commissioner O'Reilly and the Indian Superintendent of British Columbia reasonably knew, in all the circumstances, including the provincial Crown's on-going obstructionist approach in the establishment of Indian reserves when non-Aboriginal interests were at stake, that the CCLW and the Lieutenant Governor of British Columbia would not agree to permit some or all of Rebecca Spit to become part of the reserve because of the February 10, 1888 provincial Crown grant to Sayward and the prior "White settler" interests and. Reserve Commissioner O'Reilly and the Indian Superintendent of British Columbia also reasonably knew that contesting the validity of the provincial Crown grant to Sayward, without the security of an approved survey, was not a reasonable course of action to take as it would have resulted in delay in establishing the reserve and in the potential for "white settlers" to seek interests in the Proposed Unsurveyed Drew Harbour Indian reserve lands to the detriment of the We Wai Kai Nation. Accordingly, acting reasonably, they would not have sought that redress.

ii) in the event that O'Reilly had found out, after his allotment, about Sayward's later October 1886 notice of intention to purchase what became Lot 33, then, similarly, he would have found out, before his allotment, about Miller's 1884 notice of intention to purchase what became Lot 33,

and this would have led O'Reilly to find Priest's Survey Posts and to not allot any overlap; and

- d) in practice, the CCLW's formal approval of the surveyed reserve was required under PC OIC 1880-1334 followed by the provincial Crown's transfer of the surveyed reserve's underlying title to Canada before the proposed reserve could be established and become a reserve within the meaning of an *Indian Act* and before Canada gained discretionary control over the land.

2018. In response to the allegations of fact in paragraph 18 of the Amended Declaration of Claim, Canada admits that on April 21, 1888, the Indian Reserve Commission surveyor Ashdown Green instructed surveyor Skinner to survey the Proposed Unsurveyed Drew Harbour Indian reserve.

2149. Canada denies the allegations of fact in paragraphs 19 and 20 of the Amended Declaration of Claim except where expressly admitted in this Response. In further response Canada states that:

Canada admits that:

- a) Skinner field surveyed the proposed reserve on July 28, 1888 ~~under instructions from Reserve Commissioner O'Reilly.~~ Skinner's survey instructions (Skinner's Instructions) included the following:
- i) "should you discover any error in which the sketches or minutes do not agree with the land obviously intended to be given to the Indians, the spirit and not the letter of the same is to be taken. Should any claim for which a legal title exists have been encroached upon in error, you will be careful to exempt it from the intended reserve as defined in the minutes. Should you find it necessary to alter any course or distance, you will please report the same to me as soon as convenient, stating your reasons for such alteration, and enclosing a plan of the proposed deviation";

ii) “[b]efore leaving Victoria, you will supply yourself with copies of ... Crown grants and applications to pre-empt or purchase lands in the vicinity of the reserves ...”; and

iii) “you must be governed by the Provincial land regulations”; and

~~Canada denies the other allegations of fact except where expressly admitted in this Response. In further response Canada states that:~~

- b) Canada admits that Skinner reported to Reserve Commissioner O'Reilly about alterations to two other proposed reserves for the Laich kwil tach (Euclataw) Indians, and did not report any “alteration” to the Proposed Unsurveyed Drew Harbour Indian reserve.
- c) Skinner knew about the February 10, 1888 provincial Crown grant to Sayward and found Priest's Survey Posts, marked bearing trees and blazed line at the southern boundary line of Lot 33;
- d) following Skinner's instructions, O'Reilly's Instructions and the approach in the 1884 Crown Lands Act, Skinner made the boundary line made by Priest's Survey Posts the northern boundary of the Indian reserve at the base of Lot 33. Skinner then set his own boundary survey posts (Skinner's Survey Posts) there; and
- e) otherwise, Skinner field surveyed the proposed reserve generally following Reserve Commissioner O'Reilly's “rough” sketch and Minute of Decision. Skinner's surveyed reserve was larger in acreage (240.5 acres) than the acreage that O'Reilly had estimated (210 acres). Skinner would have realized that there was no sea passage across the base of Rebecca Spit and would have stopped at the southern boundary of Lot 33 in order to comply with:

- i) — the generally recognized survey practice in the province of British Columbia at the time, of not surveying lands for the benefit of one person when those lands were subject to another person's previously acquired rights, looking to previous survey plans or, when in the field, to survey posts or stakes already in the ground. This practice followed the approach in the *Lands (Crown Amendment) Act*, SBC 1879, c 21 and the 1884 *Land Act*, which provided for the legal recognition of rights acquired under the *Land Act*; and
- ii) — PC OIC 1880-1334 that required reserve Commissioner O'Reilly, and Skinner, to have regard to the claims of "white settlers".

2220. Canada admits the allegations of fact in paragraph 21 of the Amended Declaration of Claim. Skinner prepared a survey plan of the reserve from his field survey notes and O'Reilly approved the Drew Harbour Indian reserve (Surveyed Drew Harbour Indian reserve) as surveyed in Skinner's survey plan. On May 18, 1889, the CCLW approved the Surveyed Drew Harbour Indian reserve (Surveyed Drew Harbour Indian reserve) as surveyed in Skinner's survey plan.

2321. In response to the allegations of fact in paragraph 22 of the Amended Declaration of Claim, Canada admits that:

- a) on August 14, 1914, the McKenna-McBride Commission issued a Minute of Decision confirming the Surveyed Drew Harbour Indian reserve;
- b) the Surveyed Drew Harbour Indian reserve was further confirmed in the McKenna-McBride Commission's final report and approved by BC OIC 1923-911 on July 25, 1923 and by PC OIC 1924-1265 on July 19, 1924.

Canada denies the other allegations of fact. In further response, Canada states that while the We Wai Kai Nation sought additions to other surveyed reserves before the McKenna-

McBride Commission, the We Wai Kai Nation did not seek an addition to the Surveyed Drew Harbour Indian reserve to add Rebecca Spit.

2422. The Surveyed Drew Harbour Indian reserve was formally established as an Indian reserve (Drew Harbour Indian Reserve) in 1938 when the provincial Crown transferred the underlying title to Canada pursuant to BC OIC 1938-1036 on July 29, 1938.
25. In further response to the allegations in paragraphs 23 to 26 of the Amended Declaration of Claim, the We Wai Kai Nation were a party to the claims decided by the Supreme Court of Canada in *Wewaykum Indian Band v Canada*, 2002 SCC 79 (*Wewaykum*). That decision decided that the reserves in question were not established, and did not become reserves within the meaning of an *Indian Act*, until BC OIC 1938-1036 on July 29, 1938. The principle of *res judicata* applies to the We Wai Kai Nation and the We Wai Kai Nation are precluded from taking a position inconsistent with the findings in *Wewaykum*.

## V Canada Did Not Breach Any Statutory Duty

2623. Canada did not breach any alleged statutory duty in the circumstances of this case. In particular:
- a) PC OIC 1880-1334, O'Reilly's Instructions and Skinner's Instructions, which governed the roles of O'Reilly, Skinner and the CCLW in the process leading to the formal establishment of Drew Harbour Indian Reserve in 1938, was an exercise of federal prerogative powers, not an exercise of statutory powers;
  - b) Canada denies that the Proposed Unsurveyed Drew Harbour Indian reserve and the Surveyed Drew Harbour Indian reserve were Indian reserves within the meaning of the *Indian Act*, RSC 1886, c 43, as amended, or the *Indian Act*, RSC 1906, c 81, as amended. The Surveyed Drew Harbour Indian reserve did not become an Indian reserve within the meaning of the *Indian Act* until the

provincial Crown transferred the Surveyed Drew Harbour Indian reserve's underlying title to Canada in 1938; and

- c) the relevant *Indian Acts* did not set out any statutory requirements for the establishment of Drew Harbour Indian Reserve, or for the protection of any interest in the Proposed Unsurveyed Drew Harbour Indian reserve or the Surveyed Drew Harbour Indian reserve.

## VI Canada Did Not Breach Any Fiduciary Duty

2724. No federal Crown fiduciary duty arose from the alleged facts. In particular:

- a) no federal Crown fiduciary duty arose before the CCLW formally approved the surveyed reserve (that is, the Surveyed Drew Harbour Indian reserve). During that time period:
  - i) the We Wai Kai Nation did not have any specific, cognizable Aboriginal interest in Rebecca Spit being part of the Surveyed Drew Harbour Indian reserve arising from O'Reilly's allotment of the Proposed Unsurveyed Drew Harbour Indian reserve;
  - ii) the We Wai Kai Nation did not at any relevant time put Canada on notice that the We Wai Kai Nation wanted some or all of Rebecca Spit to be in the Surveyed Drew Harbour Indian reserve, or otherwise rely on Canada to include some or all of Rebecca Spit in the Surveyed Drew Harbour Indian reserve;
  - iii) Canada did not have a private-law-like discretionary control over whether Rebecca Spit would be included in the Surveyed Drew Harbour Indian reserve. At the time Canada was also acting in furtherance of the public interest in providing for settlement of "White settlers". Canada is no

ordinary fiduciary and wears many hats and represents many interests and Canada denies that any action in furtherance of this public interest gave rise, in the circumstances, to any fiduciary duty owed to the We Wai Kai Nation;

- iv) Canada refers back to the pleading at paragraph 19 of this Amended Response;  
in any event, any recommendation by Reserve Commissioner O'Reilly, and any approval by the CCLW, that the Proposed Unsurveyed Drew Harbour Indian reserve include some or all of Rebecca Spit would have been ineffective in law in including some or all of Rebecca Spit in the Proposed Unsurveyed Drew Harbour Indian reserve, as the recommendation and preliminary approval:
- a) — were beyond the federal prerogative authority that O'Reilly and the CCLW were acting under pursuant to PC OIC 1880-1334, that required them to have regard to the claims of “white settlers”; and
  - b) — subject to previously acquired rights under the 1884 *Land Act* and its predecessor legislation; and
- v) Canada was not under a private-law-like undertaking to seek to include Rebecca Spit in the Surveyed Drew Harbour Indian reserve;
- vi) the approval in or before 1889 by O'Reilly and in 1889 by the CCLW of the Surveyed Drew Harbour Indian reserve crystallized any cognizable Aboriginal interest arising from the Proposed Unsurveyed Drew Harbour Indian reserve. Canada could not ignore the “white settler” interests. At the time Canada was also acting in furtherance of the public interest in providing for settlement of “white settlers”. Canada is no ordinary fiduciary and wears many hats and represents many interests and Canada

denies that any action in furtherance of this public interest gave rise, in the circumstances, to any fiduciary duty owed to the We Wai Kai Nation; and

- vi) however, from a practical and functional point of view, Reserve Commissioner O'Reilly, including Skinner under him, acted as an agent of the provincial Crown when "white settler" interests were at stake; and
- b) no federal Crown fiduciary duty arose after the CCLW formally approved the surveyed reserve, the Surveyed Drew Harbour Indian reserve. The Surveyed Drew Harbour Indian reserve did not include Rebecca Spit.

2825. Even if In the alternative that a fiduciary duty did arise before the CCLW formally approved the surveyed reserve, then Canada acted reasonably in the circumstances and denies any breach of that fiduciary duty.

- a) — Canada did not breach that duty. In particular, even if there had been an overlap between the Proposed Unsurveyed Drew Harbour Indian reserve and the "white settler" interests, and the overlap came to Reserve Commissioner O'Reilly and the Indian Superintendent of British Columbia's attention, they reasonably knew, in all the circumstances, that the CCLW and the Lieutenant Governor of British Columbia would not agree to permit some or all of Rebecca Spit to become part of the reserve because of the February 10, 1888 provincial Crown grant to Sayward and the prior "white settler" interests. Accordingly, acting reasonably, they would not have sought that redress. Canada did not breach any basic obligations of loyalty, good faith in the discharge of its mandate, providing full disclosure appropriate to the subject matter, and acting with ordinary prudence with a view to the best interest of the We Wai Kai Nation; and
- b) — in any event, Canada denies that any failure to seek redress through re-surveying the reserve or bringing the issue to the CCLW or Lieutenant Governor of Canada would have resulted in some or all of Rebecca Spit being added to the Surveyed

~~Drew Harbour Indian reserve. Neither the CCLW nor the Lieutenant Governor of British Columbia would have agreed to permit some or all of Rebecca Spit to become part of the reserve because of the February 10, 1888 provincial Crown grant to Sayward and the prior “white settler” interest.~~

## **VII Acquiescence and Consent**

2926. In the event that Canada breached any alleged duty, then the We Wai Kai Nation acquiesced in and/or consented to the fact that the Surveyed Drew Harbour Indian reserve and the Drew Harbour Indian Reserve did not include Rebecca Spit.

## **VIII Damages**

3027. Canada denies that the We Wai Kai Nation suffered any loss or damages caused by any alleged breach of duty by Canada.

3128. Canada pleads and relies on section 20 of the *Act*.

3229. In the event that that Canada breached any alleged duty causing damages to the We Wai Kai Nation then Canada says that the We Wai Kai Nation failed to mitigate those damages.

## **IX Apportionment of Liability**

3330. In the event that there was any fault in the reserve allocation process that caused the We Wai Kai Nation any alleged loss of the inclusion of some or all of Rebecca Spit in the reserve then:


- a) the provincial Crown was solely responsible for that loss; and
- b) in the event that Canada is found liable for any damages for an alleged breach of duty then:

- i) the provincial Crown also caused or contributed to the acts or omissions relied on by the We Wai Kai Nation under s 14 (1) of the *Act*, or to the loss arising from those acts or omissions, and Canada pleads and relies on s 20 (1) (i) of the *Act*; and
  
- ii) the We Wai Kai Nation was also at fault for causing the damages and Canada pleads and relies on ss 1 and 2 of the *Negligence Act*, RSBC 1996, c 333, as amended and the sub paragraph of this Response that is immediately above this subparagraph. Particulars of the We Wai Kai Nation's contributory negligence include failure to exercise due diligence in that the We Wai Kai Nation did not advise Canada at any reasonable time that the We Wai Kai Nation wanted Rebecca Spit included in the Surveyed Drew Harbour Indian Reserve.

**X Relief**

3434. Canada seeks to have the claim dismissed in its entirety, with costs in accordance with ss 13 (1) and (2) of the *Act* and Part 14 of the Specific Claims Tribunal Rules of Practice and Procedure.

Dated: ~~September 19, 2014~~ April 15, 2016

  
\_\_\_\_\_  
Signature of  
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Updated Table of Authorities

	<b>Provision</b>	<b>Para.</b>
1.	Article 13 of the <i>Terms of Union (British Columbia)</i> , UK OIC dated May 16, 1871, reprinted in RSBC 1979, vol 7 (App.)	5
2.	<i>Lands (Crown Amendment) Act</i> , SBC 1879, c 21, s 8	12 (g)
3.	<i>Crown Lands Act</i> SBC 1884, c 16, in force February 18, 1884 ( <i>1884 Crown Lands Act</i> ), s 70	12 (g), 16, 19 (c) (i) (A), 21 (d)
4.	<i>Specific Claims Tribunal Act</i> , SC 2008, c 22, ss 2	1, 31, 33 (b) (i), 34
5.	<i>Indian Act</i> , RSC 1886, c 43	26 (b)
6.	<i>Indian Act</i> , RSC 1906, c 81	26 (b)
7.	<i>Negligence Act</i> , RSBC 1996, c 333	33 (b) (ii)