

**SPECIFIC CLAIMS TRIBUNAL**

BETWEEN:

**LUCKY MAN CREE NATION**

F I L E D	SPECIFIC CLAIMS TRIBUNAL	D É P O S É
	TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES	
	September 9, 2019	
	Isabelle Bourassa	
	Ottawa, ON	8

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

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

TO: Lucky Man Cree Nation  
As represented by Amy Barrington and Steven Carey,  
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## Overview

1. Canada is committed to reconciliation and a renewed nation-to-nation relationship with Indigenous peoples based on recognition of rights, respect, cooperation and partnership; and Canada endeavours to embody these principles as it assists the Tribunal in its task of adjudicating matters brought before it.
2. Canada favours resolving claims made by Indigenous peoples through negotiation and settlement. Canada will continue to pursue all appropriate forms of resolution as this Tribunal claim proceeds through the Tribunal process.
3. Canada acknowledges that Lucky Man Cree Nation (also referred to as Lucky Man Band, where appropriate) is an adherent to Treaty 6, is a band within the meaning of the *Indian Act*, and is a First Nation within the meaning of the *Specific Claims Tribunal Act (SCTA)*.
4. Canada acknowledges Lucky Man Cree Nation's Treaty rights, including its rights to Lucky Man Reserve.
5. Chief Lucky Man (also referred to as Lucky Man, where appropriate) signed Treaty 6 on July 2, 1879. After signing treaty, Chief Lucky Man and his followers continued to travel and hunt for buffalo with Chief Big Bear. Throughout this time, Canada actively encouraged Chief Lucky Man to select a reserve.
6. By the time the North-West Rebellion (Rebellion) took place in the spring of 1885, Canada had still not been able to get Chief Lucky Man to agree to a location for his reserve. After the Rebellion, Chief Lucky Man fled to the United States with some of his followers, while others of his followers dispersed and joined other bands.

7. In 1887, Canada surveyed Indian Reserve 116 for the Little Pine Band and for those followers of Chief Lucky Man who had remained at that location.
8. Pursuant to a 1989 Treaty Land Entitlement (TLE) Settlement Agreement (Settlement Agreement), Canada provided Lucky Man Cree Nation with 7,680 acres of reserve land (Lucky Man Reserve) in settlement of its TLE. The TLE was based on the 1980 population of Lucky Man Cree Nation, which was 60 persons.
9. Canada says that the Settlement Agreement fulfilled its TLE obligations to Lucky Man Cree Nation under the terms of Treaty 6.

**I. Status of Claim**

10. Canada admits the requirements in section 16 of the *SCTA* are satisfied, as pled in paragraphs 2 through 12 of the Declaration of Claim.
11. Lucky Man Cree Nation submitted a claim to the Minister of Indigenous of Northern Affairs (the Minister) on March 29, 1993, before the *SCTA* came into force. Canada admits that pursuant to section 42(1) of the *SCTA*, the claim is deemed to have been filed with the Minister in accordance with section 16 of the *SCTA*.
12. In 1995, the Minister notified Lucky Man Cree Nation in writing of the decision to not negotiate the claim. Subsequently, Lucky Man Cree Nation requested and obtained two inquiries into its TLE claim with the Indian Claims Commission (ICC), which resulted in two separate ICC reports, released in March 1997 and February 2008, respectively.
13. On August 16, 2010, Canada informed Lucky Man Cree Nation that after a review of the ICC's second report, Canada's decision was to not accept the claim for negotiation. Canada acknowledges that this decision satisfies the

requirements of section 16(1)(a) of the *SCTA* and the specific claim is validly before the Tribunal.

14. In May 2010, Lucky Man Cree Nation submitted a separate specific claim based on a loss of use of its reserve lands. The claim was not filed with the Minister, as Canada concluded it did not meet the minimum standard requirements in the Specific Claims Policy and Process Guide. The current claim includes a request for relief related to a loss of use. Canada acknowledges that the request for loss of use is not a stand-alone claim; rather, it is a means of assessing compensation that may be applicable upon proof of a valid claim. The loss of use claim arises from the same facts as were before the Minister, and as such, Canada acknowledges that the loss of use portion of the claim is validly before the Tribunal.

## **II. Canada's position with respect to Validity of the Claim**

15. Canada has complied with its treaty and fiduciary obligations in the setting apart of a reserve for the Lucky Man Cree Nation in a fair and timely manner. The Settlement Agreement fulfilled Canada's TLE obligations to Lucky Man Cree Nation under the terms of Treaty 6. As such, the facts do not establish a valid claim under the *SCTA*.

## **III. Canada's position with respect to Allegations of Fact**

16. The material facts related to this claim are not in dispute. Where allegations of fact from the Declaration of Claim are not wholly admitted in the Response, it is generally based on a characterization of the facts alleged, not on a denial of the underlying facts. Canada intends to propose that the Parties develop an agreed statement of facts early in the process.

### ***Treaty 6 and Canada's promise to provide reserve lands***

17. Canada admits that in 1876, it entered Treaty 6 with certain Plains and Woods Cree bands in what is now central Saskatchewan. Among other things, Treaty 6 provided for the surrender of aboriginal title to 121,000 square miles of land in

exchange for various promises and benefits, as pled in paragraph 15 of the Declaration of Claim.

18. Canada admits Treaty 6 includes a promise to set aside a reserve for each band in the amount of one square mile for each family of 5 (approximately equal to 128 acres per person), as pled in paragraph 15 of the Declaration of Claim.
19. Canada admits that in July 1879, a headman known as Lucky Man broke away from Chief Big Bear's camp and signed an adhesion to Treaty 6 along with almost 470 followers, in order to obtain rations and treaty annuities in the face of starvation. Chief Lucky Man's group became known as Lucky Man Band, and Chief Lucky Man was recognized by treaty commissioners as a chief, as pled in paragraph 16 of the Declaration of Claim.
20. Canada admits Lucky Man Cree Nation is the successor in interest to Lucky Man Band, and is therefore entitled to benefits under Treaty 6, as pled in paragraph 16 of the Declaration of Claim.
21. Canada admits Treaty 6 required that it send a suitable person to determine and set apart reserves for each band after consulting with each band "as to the locality which may be found to be most suitable for them", as pled in paragraph 17 of the Declaration of Claim.
22. Canada admits the adhesion signed by Chief Lucky Man provided that Lucky Man Band did "hereby agree to accept the several benefits, payments, and reserves promised to Indians adhering to the said treaty at Carlton and Fort Pitt on the dates above mentioned", as pled in paragraph 18 of the Declaration of Claim.

***Attempts to set aside a reserve for Lucky Man Band***

23. Canada admits that until May 7, 1880, the Department of Indian Affairs (Indian Affairs) was a branch of the Department of the Interior, and authorization and

approval of reserve location and surveying was the responsibility of the Surveyor General, as pled in paragraph 19.

24. In response to paragraphs 20 and 27, Canada says that after 1880 both Indian Affairs and the Department of the Interior were involved in surveying reserves. Canada states that whether the Departments struggled to coordinate and communicate in their work, as pled, is a subjective conclusion and not a statement of fact.
25. Canada admits that in 1880, Indian Agent Allen discussed selections of reserves with Chiefs Lucky Man, Little Pine and Piapot in Fort Walsh. Canada further admits that Chief Lucky Man informed the Indian Agent that his band wished to have a reserve in the neighborhood of Battleford, as pled in paragraph 21 of the Declaration of Claim.
26. In response to paragraph 22 of the Declaration of Claim, Canada says that Chief Lucky Man's request did prompt a reaction from Crown officials. Canada says that Indian Agent Allen reported Chief Lucky Man's statement to his superiors, but also informed them that he could not get a definitive answer from Chief Lucky Man as to when he would settle. Canada continued to encourage Chief Lucky Man to move north and select a reserve, but was unsuccessful in these efforts.
27. Canada admits that in 1880 George Simpson was the only active surveyor in Treaty 6 territory, and admits Simpson surveyed three reserves in 1880 before wintering in Battleford, as pled in paragraph 23 of the Declaration of Claim.
28. In response to paragraph 24 of the Declaration of Claim, Canada denies the circumstances obliged it to survey a reserve for Chief Lucky Man at that time, or that it failed to acknowledge that Chief Lucky Man had indicated he wished a reserve in the neighborhood of Battleford.

29. Canada admits that Chief Lucky Man and his followers spent the winter of 1880-81 hunting bison in the United States, returning to Fort Walsh in the spring of 1881. Canada also admits that Commissioner Dewdney asked the Inspector of Indian Agencies to bring about the settlement of Chiefs Little Pine, Piapot and Lucky Man on reserves that year, as pled in paragraph 24 of the Declaration of Claim.
30. In response to paragraph 25 of the Declaration of Claim, Canada says that Commissioner Dewdney instructed the Inspector of Indian Agencies to advise Chief Lucky Man that if he was anxious to go north and see first hand the reserves where bands had already settled, the Inspector should assist him in doing so. Canada admits that no such trip occurred, as pled in paragraph 25 of the Declaration of Claim.
31. Canada admits that Chief Lucky Man and his followers remained by Fort Walsh until the fall of 1881, and then returned to the United States to hunt bison for the winter, as pled in paragraph 26 of the Declaration of Claim.
32. Canada admits that Chief Lucky Man and his followers returned to Fort Walsh in the spring of 1882, as pled in paragraph 26 of the Declaration of Claim, but says it was 2000 Indians that assembled at Fort Walsh seeking rations, not 3000 as pled.
33. Canada admits that Commissioner Dewdney instructed Indian Agents to encourage the Cree chiefs who had gathered at Fort Walsh to move north, away from the Cypress Hills Region, as pled in paragraph 26 of the Declaration of Claim.
34. Canada admits that in September 1882, Chief Lucky Man requested a reserve 30 miles from Fort Walsh on Big Lake in Treaty 4 territory. Canada further admits that the 1882 treaty payroll indicates Lucky Man Band had 872 members, as pled in paragraph 28 of the Declaration of Claim.

35. Canada admits that no reserves were surveyed in the Treaty 6 territory in 1882, and one reserve was surveyed in the Treaty 4 territory in 1882, as pled in paragraph 29 of the Declaration of Claim.
36. Canada admits that it did not approve Chief Lucky Man's request for a reserve at Big Lake, and that by policy it would not consider requests from Northern Cree bands for reserves in the Cypress Hills Region, as pled in paragraph 30 of the Declaration of Claim.
37. In response to paragraph 30 of the Declaration of Claim, Canada says that Commissioner Irvine had threatened to withhold assistance if the bands did not move north, but that Commissioner Irvine eventually paid annuities to the Cree at Fort Walsh, as he feared they would starve if he did not. Canada says that after paying the annuities, Commissioner Irvine impressed upon the bands that no further assistance would be provided until they moved north.
38. Canada admits that Lucky Man Band and other Cree bands remained in the Cypress Hills region into 1883. Canada also admits that in the spring of 1883, Chief Lucky Man was informed that he was required to move north towards Battleford, as pled in paragraph 31 of the Declaration of Claim.
39. Canada admits that it informed the Chiefs that treaty promises, additional rations and additional implements would only be supplied if they continued north. Canada also admits it informed the bands they would be refused aid if they remained in the Cypress Hills Region and would only be provided assistance if they agreed to move north, as pled in paragraph 31 of the Declaration of Claim.
40. Canada says that after the bands had started north, Chief Lucky Man returned to the Cypress Hills Region. Canada admits that Chief Lucky Man was then told he would be arrested unless he promptly returned with his entire camp to his reservation, as pled in paragraph 31 of the Declaration of Claim.

41. Canada admits that Lucky Man Band and Chief Big Bear's band were escorted north to a location near Battleford in July 1883, as pled in paragraph 32 of the Declaration of Claim, but says that Chief Lucky Man had not yet selected a reserve for his band.
42. Canada admits that the 1883 treaty payroll indicates that Lucky Man Band had 366 members, and that Lucky Man is not listed as "Chief" on the 1883 payroll, as pled in paragraph 32 of the Declaration of Claim.
43. Canada admits that for the remainder of 1883, the Lucky Man Band remained camped in the Battleford area, as pled in paragraph 33 of the Declaration of Claim.
44. Canada admits that number 117 was assigned as an Indian Reserve number to Lucky Man Band, and that since 1918, Indian Reserve 117 has denoted land set aside for Witchehan Lake First Nation. Canada also admits that there is no indication that Indian Reserve 117 was ever associated with a site selected by Chief Lucky Man or his band, as pled in paragraph 34 of the Declaration of Claim.
45. Canada admits that the Indian Affairs Annual Report for 1883 indicated that Lucky Man Band "may be considered as virtually settled, as they are being kept working in the neighborhood of Battleford prior to moving to Reserve, being adjacent", as pled in paragraph 35 of the Declaration of Claim.
46. In response to paragraph 35 of the Declaration of Claim, Canada says Chief Lucky Man had not chosen a reserve by the end of 1883, and was not considered to be settled on his own reserve.
47. Canada does not agree that either the 1883 or the 1884 records reflect an understanding that Chief Lucky Man had chosen a reserve, as pled in paragraph

36 of the Declaration of Claim. Canada says Chief Lucky Man did not select or agree to a location for a reserve while he was a leader of the Lucky Man Band.

48. Canada admits that the 1883 Report of the Commissioner of the North West Mounted Police indicates that Lucky Man had been given buckboards and carts to facilitate his and his followers agricultural pursuits, as pled in paragraph 36 of the Declaration of Claim, but says this was given to encourage settlement and selection of a reserve.
49. Canada admits that a letter from Indian Agent Rae to Assistant Commissioner Reed in April 1884 indicated that Little Pine's Band and Lucky Man's Band had "started from [Battleford] to go to their Reserves as per agreement", as pled in paragraph 36 of the Declaration of Claim.
50. Canada admits that by the spring of 1884, there was not a formal survey of a reserve for Lucky Man Band, as pled in paragraph 36 of the Declaration of Claim, but says that circumstances did not support that a survey should have been undertaken by that time. Canada says that after Chief Lucky Man left Battleford in April of 1884, he went to Chief Poundmaker's Reserve, and refused Canada's requests to commit to a day to leave from there.
51. In response to paragraph 37 of the Declaration of Claim, Canada says there is no evidence that a specific location for a reserve was ever chosen by Chief Lucky Man, was ever agreed to by Chief Lucky Man, or was even visited by Chief Lucky Man.
52. Canada admits that by the fall of 1884, neither Lucky Man Band nor Little Pine Band reserves had been surveyed, and also admits that 8 other reserves were surveyed in Treaty 6 that year, as pled in paragraph 38 of the Declaration of Claim. Canada says that its surveyor offered to survey a reserve for Chief Little Pine and those followers of Chief Lucky Man who had settled with him, but Chief Little Pine did not wish to have a survey that year.

53. Canada admits that in 1884 Lucky Man was paid his annuities as a member of the Big Bear Band at Fort Pitt in October 1884, as pled in paragraph 38 of the Declaration of Claim.
54. Canada says that Lucky Man's name did not appear on the 1884 payroll for Lucky Man Band, and that he was identified as an "ex-chief" on the 1884 payroll for Big Bear Band, not on the 1884 payroll for Lucky Man Band as pled in paragraph 38 of the Declaration of Claim.
55. Canada admits that in 1884, Lucky Man Band was identified as an independent band, as pled in paragraph 38 of the Declaration of Claim, but says that the 1884 annuity payroll shows that 82 Lucky Man Band members received annuities.
56. Canada says that paragraph 39 of the Declaration of Claim is an assertion of a legal opinion, not a statement of fact, and Canada says that the facts pled do not support the legal opinion being asserted.

***The North-West Rebellion***

57. Canada admits that in March 1885, the Rebellion commenced when Louis Riel declared a provisional government at Batoche, as pled in paragraph 40 of the Declaration of Claim.
58. Canada admits that Lucky Man and several of his followers fled to the United States, fearing prosecution, as pled in paragraph 40 of the Declaration of Claim, but says that this occurred in late June 1885 (as pled in paragraph 42); and had not already happened at the outbreak of the Rebellion (as implied in paragraph 40).
59. Canada admits that in the aftermath of the Rebellion, it identified a list of bands it considered disloyal during the Rebellion, which included Lucky Man Band, as pled in paragraph 41 of the Declaration of Claim.

60. Canada admits that following the Rebellion, it took measures that were intended to break up the tribal system as much as possible, including the withholding of treaty annuities and salaries, the imposition of the pass system, the confiscation of horses, and reduction of arms and ammunition, as pled in paragraph 41 of the Declaration of Claim. Canada says the remainder of paragraph 41 contains characterizations or conclusions, and not statements of facts.
61. Canada admits that Lucky Man and some followers fled to the United States in late June 1885, as he feared prosecution following the events of the Rebellion, as pled in paragraph 42 of the Declaration of Claim. Canada cannot confirm whether Lucky Man faced an uncertain future, as pled, and says the statement that Lucky Man had a peaceful and innocent approach to the Rebellion is a characterization or conclusion, and is not a statement of fact.
62. Canada can neither deny nor confirm that Lucky Man and about 75 other “Canadian Cree” settled at Fort Assiniboine once they reached Montana, as pled in paragraph 43 of the Declaration of Claim.
63. In response to paragraph 43 of the Declaration of Claim, Canada admits that some members of Lucky Man’s Band remained in Canada, as pled, but says many of the former Lucky Man Band members decided to join other bands. Canada denies it was confused about the existence of the Band. Canada says the remainder of paragraph 43 contains speculation and legal argument, and not statements of fact.
64. Canada admits that in 1885 Chief Little Pine died and Chief Lucky Man had fled to Montana, as pled in paragraph 44 of the Declaration of Claim. Canada also admits that in 1887, a survey was done to set aside a reserve for the members of Little Pine Band and Lucky Man Band that resided in the Battleford area, and that Indian Reserve 116 comprised 25 square miles, which was sufficient for a population of 125 people under the terms of Treaty 6. Indian Reserve 116 was confirmed by Order in Council in 1889.

65. Canada admits that Lucky Man was returned to Canada by American authorities in 1896, following 11 years of exile in the United States, as pled in paragraph 45 of the Declaration of Claim.
66. Canada admits that Lucky Man was arrested at the border for his alleged participation in the Rebellion and was released by Canadian officials in June 1896 after charges against him were dropped for lack of evidence, as pled in paragraph 45 of the Declaration of Claim.
67. Canada admits that following his release, Lucky Man went to Alberta and met up with members of his party, as pled in paragraph 45 of the Declaration of Claim. Canada also admits that the record is unclear where Lucky Man was after 1896, and that he eventually returned to Montana, where he later died.
68. Canada admits that following the Rebellion in 1885, some of Lucky Man's followers fled to the United States with him, while others remained behind and joined other bands, and some remained at the location that eventually became Indian Reserve 116, as pled in paragraph 46 of the Declaration of Claim.
69. Canada admits that Lucky Man did not receive a salary from Canada as a chief between 1885 and his death in 1901, as pled in paragraph 46 of the Declaration of Claim.

***Lucky Man Band paylists following the Rebellion***

70. Canada admits that it kept Treaty 6 paylists on an annual basis, and admits the following information with respect to the paylists of Lucky Man Band, as pled in paragraph 50 of the Declaration of Claim:
  - In 1880, 754 people were paid annuities with the Lucky Man Band;
  - In 1882, 872 people were paid annuities with the Lucky Man Band;
  - In 1883, 366 people were paid annuities with the Lucky Man Band;
  - In 1884, 82 people were paid annuities with the Lucky Man Band;

- In 1885 and 1886, the paylists indicate that 82 Lucky Man Band members who remained at the area set aside for Little Pine's reserve were considered disloyal and were not paid annuities;
- In 1887, the paylist indicates the population of Lucky Man Band was 62 and annuities were paid at "Little Pine's reserve". Notations on the paylist indicate that 37 members had gone south; and
- In 1890, the names of the band members who fled to the United States after the 1885 Rebellion were struck from the treaty annuity paylists.

71. With respect to paragraphs 47, 48 and 49 of the Declaration of Claim, Canada admits that the paylists referred to exist and admits the contents of those paylists, as the documents speak for themselves. Canada says the remainder of paragraphs 47, 48 and 49 contain characterizations or opinion, and not statements of facts.

#### **IV. Canada's statements of fact**

72. Lucky Man was a Cree headman and part of a large group led by Chief Big Bear. Chief Big Bear and his followers were nomadic buffalo hunters, whose traditional lands were in the Treaty 6 area.

73. During the 1870s, there was a significant decrease in the buffalo and many bands in Saskatchewan signed Treaty 4 in 1874 and Treaty 6 in 1876, and in the years that followed. This provided bands with the benefits of treaty, including annuities and the opportunity to transition to an agricultural lifestyle.

74. Chief Big Bear was reluctant to sign treaty. He and his followers, including Lucky Man, continued to travel in pursuit of the buffalo, travelling frequently into the United States and then returning to camp at Fort Walsh, near Cypress Hills.

75. As the number of buffalo diminished and it became increasingly difficult for Chief Big Bear and his followers to live a nomadic lifestyle, there was disagreement amongst Chief Big Bear's followers regarding whether he should adhere to treaty and obtain treaty benefits to alleviate their hardships.

76. On July 2, 1879, Chief Lucky Man adhered to Treaty 6 at Fort Walsh, with many of Chief Big Bear's followers joining him. Chief Little Pine, who often travelled with Chief Big Bear, also adhered to Treaty 6 on the same date.
77. After signing Treaty 6, Chief Lucky Man and his followers did not select and settle on a reserve. They, along with Chief Little Pine, remained closely aligned with Chief Big Bear. They continued to travel with Chief Big Bear, often into the United States in pursuit of the buffalo, returning periodically to Fort Walsh and the Cypress Hills area.
78. Canada attempted to ascertain where Chief Lucky Man wanted his reserve, and encouraged him to select and settle on reserve. In 1880, Canada asked Chief Lucky Man where he wished to settle. Chief Lucky Man indicated he "wished to locate in the neighborhood of Battleford". However, Canada could not get a definitive answer from Chief Lucky Man as to when his band would move north and settle on a reserve.
79. Throughout 1881 and 1882, Chiefs Lucky Man and Little Pine continued to travel with Chief Big Bear, hunting and camping in the United States and returning to Fort Walsh to receive treaty payments and purchase provisions. Chief Lucky Man resisted all efforts by Canada to have him move north to his traditional territory and select an appropriate location for his reserve.
80. In 1882, Chief Lucky Man and his followers returned to Fort Walsh following an unsuccessful hunt with limited provisions, and facing the onset of the cold weather. Canada continued to encourage them to move north and settle on reserve. Chief Lucky Man informed Canada he wanted a reserve at Big Lake about 30 miles east of Fort Walsh, in Treaty 4 territory. Canada advised Chief Lucky Man that he was required to select a reserve in Treaty 6 territory, and would not be provided a reserve in the Cypress Hills Region.

81. Canada continued to encourage the bands to move north and settle on reserve, and in 1883, it set to close Fort Walsh in order to encourage northerly settlement by the bands.
82. In the summer of 1883, Chief Lucky Man and his followers moved north. They settled and began working near Battleford, but still Chief Lucky Man had not selected a reserve or requested that one be surveyed. The following spring, Chief Lucky Man and his followers travelled to Chief Poundmaker's reserve, where they remained for a lengthy period of time.
83. Throughout 1884 and 1885, uncertainty remained regarding where and when Chief Lucky Man would settle on reserve as he continued to travel with Chief Big Bear. Canada continued to encourage unsettled chiefs to select a reserve.
84. In 1884, Chief Little Pine and some of his members settled on reserve and started farming. Some members of the Lucky Man Band continued to travel with Chiefs Big Bear and Lucky Man, while other members of Lucky Man Band remained with Chief Little Pine where he had settled.
85. In July 1884, Canada sent a surveyor to the Battleford area for the purpose of surveying reserves for bands desiring them. Chief Little Pine, whose settlement now included members of the Lucky Man Band, wanted the survey postponed to a later year.
86. In September 1884, the Inspector of Indian Agencies met with Chiefs Big Bear, Lucky Man, Little Poplar, and their followers at Fort Pitt. He tried to convince the Chiefs how much better off they would be if they chose a reserve and settled down, but none of the Chiefs chose a reserve or expressed a desire to settle at that time.

87. By late 1884, Canada no longer recognized Lucky Man as a chief. He and those of his followers who continued to travel with him were considered members of Chief Big Bear's band.
88. At no time during the period of 1879 to 1884 when Lucky Man was recognized by Canada as a chief did Lucky Man select a specific location for a reserve, attempt to settle on a reserve, or request that a reserve be surveyed for him and his followers.
89. Following 1884, Lucky Man Band continued to exist and was recognized by Canada as a band with entitlements under treaty. Lucky Man Band consisted of Lucky Man's previous followers who had settled on land with Chief Little Pine and his followers.
90. In March of 1885, Louis Riel established a provisional government, and the Rebellion began when Riel took prisoners and seized stores in Batoche.
91. In April 1885, a group of Cree warriors seized the Frog Lake settlement, during which several settlers were killed. Soon thereafter, there was an attack at Fort Pitt and a police constable was killed. Lucky Man and Chief Big Bear were present at both occurrences, but it does not appear from the historical records that they were involved in the violence.
92. In May 1885, the Rebellion ended and Lucky Man and Chief Big Bear fled to Montana. Following the Rebellion, both Lucky Man and Chief Big Bear were identified as having participated in the Rebellion and their bands were considered disloyal.
93. After the Rebellion, the majority of Lucky Man's previous followers dispersed to other bands. Canada continued to acknowledge the existence and treaty rights of Lucky Man Band, which included those members of Lucky Man Band who settled in the area near what was to become Little Pine Reserve.

94. In 1887, Canada surveyed Indian Reserve 116 for the use and benefit of Little Pine Band and Lucky Man Band. Neither Chief Little Pine nor Lucky Man were present at the time of survey, as Chief Little Pine had died in 1885 and Lucky Man remained in the United States. The 25 square mile reserve was confirmed by Order in Council in May 1889.
95. In 1896, Lucky Man was returned to Canada by American authorities. He was arrested for his participation in the events at Frog Lake. In July 1896, Lucky Man was released, as there was not enough evidence to support charges against him.
96. After returning to Canada, Lucky Man did not settle with the remainder of Lucky Man Band on Indian Reserve 116. Instead, he initially travelled to Alberta and eventually returned to Montana where he remained until his death.
97. In 1961, at the request of Lucky Man Band members, a letter was sent requesting that Canada recognize the Lucky Man Band's entitlement to its own reserve.
98. In 1974, Lucky Man band members elected their first chief since Lucky Man and began efforts to have land set apart as their own reserve.
99. On November 23, 1989, Lucky Man Cree Nation signed a Settlement Agreement with Canada. In return for surrender of its interest in Reserve 116, and in settlement of the band's TLE, Lucky Man Cree Nation received 7680 acres of reserve land. The Settlement Agreement was based on Lucky Man Cree Nation's 1980 population of 60.
100. The release in the Settlement Agreement allowed the Lucky Man Cree Nation to bring a further claim for compensation for loss of use of its reserve lands and for compensation in lieu of land if they could establish they had a greater TLE entitlement than set out in the TLE Settlement Agreement.

**V. Relief**

101. Canada seeks the following relief:

- a. Dismissal of the Claims set out in the Declaration of Claims;
- b. Costs; and
- c. Such further relief as this Honourable Tribunals deems just.

**VI. Communication**

102. The Respondent's address for the service of documents is:

Department of Justice (Canada)  
Prairie Regional Office (Saskatoon)  
410 – 22<sup>nd</sup> Street East, Suite 410  
Saskatoon, SK S7K 5T6  
Attention: Jody Lintott and Von Agioritis

103. Facsimile number for service is (306) 975-4030.

104. Email address for service is: [saskSCT-5003-19-luckymancree@justice.gc.ca](mailto:saskSCT-5003-19-luckymancree@justice.gc.ca)

Dated this 12th day of September, 2019.

  
**ATTORNEY GENERAL OF CANADA**

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