Dossier du TRP n° : SCT-2002-20

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

TIMISKAMING FIRST NATION AND WOLF LAKE FIRST NATION

Claimants

v.

HER MAJESTY THE QUEEN IN THE RIGHT OF CANADA
As represented by the Minister of Crown-Indigenous Relations

Respondent

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 :

THE SPECIFIC CLAIMS TRIBUNAL

And

TIMISKAMING FIRST NATION &
WOLF LAKE FIRST NATION

As represented by:
David C. Nahwegahbow
Nahwegahbow Corbière,
Genoodamagejig / Barristers and Solicitors,
5884 Rama Road, Suite 109,
Rama, ON L3V 6H6
Telephone: (705)325-0520
Facsimile: (705)325-7204
Email: dndaystar@nncfirm.ca

I. Overview

1. The Plaintiffs claim a breach of Canada's legal obligations under legislation as well as a breach of its fiduciary duty when it failed to establish a 100,000-acre reserve as claimed to have been undertaken by Order-in-Council enacted in 1849.

2. Canada acknowledges the rights of Timiskaming First Nation (TFN) and Wolf Lake First Nation (WLFN) to bring a claim before the Specific Claims Tribunal.

3. However, Canada submits that the 1849 Order-in-Council, considered within the relevant historical, legal and political context, was not an undertaking to create a reserve, and that the declaration of claim fails to disclose a valid claim under the *Specific Claims Tribunal Act* (*SCTA*).

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

4. Canada admits that the requirement of section 16 of the *SCTA* are satisfied, as pled in paragraphs 12 through 13 of the Declaration of Claim.

5. TFN and WLFN first submitted their specific claim to the Specific Claims Branch on July 17, 2012.

6. The claim was filed with the Minister of Aboriginal Affairs and Northern Development on December 12, 2012.

7. By letter dated April 7, 2016, Joe Wild, Senior Assistant Deputy Minister, Treaties and Aboriginal Government, informed TFN and WLFN that it was the decision of the Minister of Indigenous and Northern Affairs Canada not to accept the specific claim for negotiations.

III. Canada's position with respect to the Validity of the Claim (R. 42 (b) and (c))

8. Canada takes the following position in response to the specific allegations set out in TFN and WLFN's claim:

    a) The 1849 Order in council, appropriately considered in its historical, legal and political context, and in accordance with the intention of the Crown, does not reveal an intention to create a reserve.

b) The *Act to authorize the setting apart of lands for the use of certain Indian Tribes in Lower Canada* (Act of 1851) and its attached schedules, the third and final of which was approved by Order-in-Council in August 1953, reflect an approach taken by the government to establish a procedural framework for the authorization of the setting apart of lands for the purposes of the creation of reserves in all of Lower Canada.

c) To interpret the 1849 Order in council as anything other than a preparatory step in what was to be a broader government process for authorizing the setting apart of lands for the creation of reserves throughout Lower Canada, would be to misconstrue its plain meaning, while ignoring its political, legal and historical context.

d) There were no obligations to create a particular reserve prior to when the reserve at Timiskaming was actually created in 1854.

9. Therefore, Canada submits that the declaration of claim does not disclose a valid claim under the *SCTA*.

IV. Canada's position with respect to file SCT- 2001-18

10. In addition to these proceedings, Canada is actively engaged in another claim before the Specific Claims Tribunal implicating WLFN (SCT-2001-18), filed on November 19, 2018.

11. In SCT-2001-18, (hereafter, "the 1988 Claim by WLFN") WLFN claim that Canada committed to an obligation of means to act in their best interests, and explicitly promised in May of 1982 to pursue the reserve creation process on their behalf in the event that Quebec showed openness to reserve creation upon the eventual completion of its own provincial reserve creation policy. Further, WLFN claim that when Canada unilaterally terminated the reserve creation process in or around October of 1988, Canada breached its fiduciary obligation of means as regards to the reserve creation process by failing to act in accordance with its basic obligations of loyalty, good faith, full disclosure, and ordinary prudence with a view to WLFN's best interests.

12. Originally, the 1988 Claim was not accepted for negotiation under the Specific Claims Policy in 2009. Since then, Canada has reassessed its position and is now committed to negotiations.

13. On May 12, 2020, in the interest of initiating and ensuring good faith negotiations in that file, and prior to TFN and WLFN filing the current claim, Canada filed an Amended Response admitting the validity of the 1988 Claim.

14. With the introduction of the present claim on July 3, 2020, there is now significant overlap between the two claims, not only as to the facts giving rise to the respective claims, but also as to their respective validity and the potential compensation available.

15. Canada would not have been in a position of committing to negotiate the creation of a reserve for WLFN in the 1980s if a 100,000-acre reserve had already been created for WLFN and TFN more than a century before, pursuant to an 1849 Order-in-Council, as the Claimants allege.

16. In the years leading up to May of 1982, when the commitment to negotiate the creation of a reserve for WLFN was made by Canada, the authorization of additional reserve lands, whether that involved the creation of new reserves or additions to existing reserves, was highly exceptional, and subject to specific considerations which were outlined in Canada's *Interim Policy Governing Additions to Indian Reserves*, and its subsequent iterations.

17. As a general rule, no additional reserve lands were to be authorized, with limited exceptions. Exceptions were only available in certain defined circumstances: first to meet outstanding treaty obligations; second in exchange for expropriated reserve lands; and, third for social, economic or geographic considerations justifying the addition or creation.

18. Canada committed to create a reserve in the 1980s because WLFN was a landless First Nation. It is therefore highly unlikely that Canada would have been in the position to commit to negotiate the creation of an additional reserve for WLFN in the 1980s if a 100,000-acre reserve had already been created for them and TFN more than a century before, pursuant to an 1849 Order-in-Council. Had they been given a reserve of such a size in 1849, it is very unlikely that WLFN would have met any of the above-cited exceptions for additional reserve lands in the 1980s.

19. In that sense, if the Tribunal comes to the conclusion that the present claim is to be resolved in favour of the Claimants, this would mean that the portion of compensation to be ordered in favour of WLFN would have to take into account the deduction of the compensation that is to be negotiated or determined in the 1988 claim by WLFN, in order to prevent double compensation in regards to WLFN.

20. This same logic, to prevent double compensation, is applicable also to TFN given the fact that a reserve was also eventually created for them in 1854.

21. Without addressing these overlaps in some way, to treat the two claims as separate and distinct is impossible, and indeed untenable in law. This creates significant issues for the resolution of both claims, whether by negotiation or litigation.

22. In a case management conference on July 29, 2020, for the 1988 Claim by WLFN, Canada expressed, in light of the new Claim, its concern with respect to the overlap between the respective claims, and requested that both claims be specially managed by the same Tribunal Member.

23. To this demand, the Honourable Justice Mayer informed the parties that he is seized of both files and that any demand concerning either file (or both) could be forwarded to him for the moment.

24. At the same case management conference, the parties requested time to work out an approach to the potential for overlap between the two claims. The Tribunal ordered a stay of proceedings until September 22, 2020.

25. If discussions toward resolving the overlap between the claims are not successful, Canada will consider various options for moving forward, including but not limited to:

    a) Requesting a stay of the 1988 Claim by WLFN until this Claim is resolved;

    b) Filing a motion to retract the May 12, 2020, admission of validity;

    c) If a settlement is reached in the 1988 Claim by WLFN before the Tribunal issues its decision in the present claim, requesting that the Tribunal order that the compensation paid in settlement in the 1988 Claim negotiations be deducted from the amount awarded in favour of WLFN, in the present claim.

26. In any event, and in the interest of protecting the integrity of the 1988 Claim by WLFN negotiations, as well as the present proceedings, Canada submits that the admission of validity in Canada's Amended Response in SCT-2001-18 be subject to the decision of the Tribunal in the present claim and must operate without prejudice to either claim.

V. Canada's position with respect to Allegations of Fact (R. 41, 42 (d))

27. Unless expressly stated otherwise, Canada takes the position that it has no or incomplete knowledge of the allegations stated in the Declaration of Claim and puts the Claimants to the proof thereof if the claim is to proceed.

28. Where the allegations in the Declaration of Claim are based on a document to be put into evidence, Canada refers the Tribunal to the content of the document itself, without admitting the admissibility and veracity of the document for the moment, nor the Claimants' characterizations as to its content and significance. This includes, but is not limited to, paragraphs 17-73 of the Declaration of Claim.

29. That being said, Canada acknowledges that both it and the Claimant base their respective positions on many of the same historical documents, and submits that it would be preferable that the Claimants and Canada come to an agreement on a joint statement of facts in order for this case to be dealt with in a just and timely manner.

30. Canada admits that TFN and WLFN are First Nations within the meaning of the *Indian Act* and the *SCTA*, are part of the Algonquin nation and are closely associated with both the Algonquin and Nipissing Peoples, as pled in paragraphs 2 to 4 of the Declaration of Claim.

31. Canada takes note that at paragraph 14 of the Declaration of Claim, the Claimants do not seek compensation in excess of $150 million.

32. Canada takes note of the grounds in support of this specific claim as stated in paragraph 15.

33. As for paragraph 16 of the Declaration of Claim, Canada takes note that the present claim is not based on and does not allege Aboriginal rights or title but some facts could be presented to give context to the present claim. However, Canada opposes that these allegations be used to provide a foundation for a finding of a breach of the honour of the Crown or of a fiduciary obligation. As for paragraph 17 of the Declaration of Claim, Canada takes note of the legal argument stated.

34. As for paragraphs 18-19 and 20-52 of the Declaration of Claim, Canada has no or incomplete knowledge of the allegations and refers the Tribunal to primary source historical documents, legislation and oral history in support, to the extent they are relevant and necessary to the resolution of the claim. That being said, Canada admits that as early as 1822 and up to the late 1840s, the ancestors of the TFN and WLFN submitted a number of petitions to the Governments of Upper and Lower Canada for a wide variety of reasons, including encroachments on their hunting grounds, worsening living conditions, and demands for land upon which to settle and cultivate, as referred to in paragraphs 45 and 59 of the Declaration of Claim.

35. As for paragraphs 53 to 57 of the Declaration of Claim, Canada takes note of the interpretation proposed by the claimants. Canada refers to all legal instruments and other documents in support of the matter raised in these paragraphs and will explain in its own way how these instruments apply to the present claim.

36. As for paragraph 58 of the Declaration of Claim, Canada takes note of the legal argument.

37. As for paragraphs 59 to 61 of the Declaration of Claim, Canada admits that petitions were made in the 1840s on behalf of the ancestors of TFN and WLFN by their missionaries and the Bishop of Bytown, including to the Governor General James Bruce, Earl of Elgin, and ignores the rest.

38. Canada admits that the Bishop of Bytown's letters were referred to the Lands Commissioner's Office and that Tancred Bouthillier, Assistant Commissioner of Crown Lands, subsequently prepared two reports to the government: the first on July 11, 1849, and the second on August 2, 1849, as referred to in paragraphs 62 through 70 of the Declaration of Claim and ignores the rest.

39. Canada admits that on August 7, 1849, the Governor General in Council referred directly to the second report by Bouthillier in the official minutes of the Committee of the Executive Council, as referred to in paragraph 71 of the Declaration of Claim and ignores the rest.

40. Canada takes note of the legal argument stated in paragraph 72 of the Declaration of Claim.

41. Canada admits, as referred to in paragraph 73 of the Declaration of Claim, that Bouthillier sent a letter to George Vardon, Assistant Superintendent General of Indian Affairs in January of 1850, as detailed further in Canada's statement of facts below and refers to the documentation in support.

42. Canada takes note of the legal arguments stated in paragraphs 74 to 77 of the Declaration of Claim.

43. Canada takes note of the relief sought at paragraph 78 of the Declaration of Claim.

V. Canada's Statement of Facts (R. 42 (e))

44. On February 15, 1834, James Hughes, Superintendant of the Indian Department, sent a letter to Lt. Col. DC Napier, requesting that reserve land for the Indians from Lake of Two Mountains be investigated.

45. On July 10, 1838, the Algonquin and Nipissing tribes at Lake of Two Mountains sent a petition to James Hughes, asking him to forward their petition to the Governor General, and asking that they handle the issue of settlers illegally encroaching on their land.

46. A petition dated September 6, 1838, from the Chiefs and Warriors of the Algonquin and Nippisingue Indians to Major General Sir George Arthur reasserted their ancestral connection to their hunting grounds, and stated that the Mississauga Tribe had sold Algonquin and Nippisingue hunting grounds to the Government of Upper Canada and that they did not possess any reserve lands. This information was circulated amongst upper management of Indian Affairs during September 1838.

47. The Bagot Commission on Indian Affairs, appointed by the Governor of Canada in 1842, recommended to the legislative assembly in its report that landless tribes in Lower Canada such as the Algonquins and the Nipissing receive support "to enable them to make up farming".

48. During the summer of 1845, the Crown Lands Commissioner went to the Saguenay area to measure the extent of the difficulties there and among his recommendations, he suggested that the "Indians" be allocated land and settled on farm lands as close as possible to their residential location.

49. On February 23, 1847, Antoine Pakinawatick "Chief of the Indians the Algonquin of Lake and in the County of Lake of Two Mountains, as well in his own name as in the name & representing the Indians society & Company of said Lake & County" sent a petition to Governor General James Bruce. In it, he asked the Governor to grant him a specific tract of land in his capacity as Chief.

50. In his response of March 13, 1847, the Governor General said that if the Algonquin and Nipissing People wished to move to the area requested, the government would provide them assistance to do so but he refused their petition, because "it would be impossible to exercise a proper degree of superintendence over them, if so located" and because "the Governor General is not disposed to sanction the new formation of Indian settlement in any part of the Province".

51. The following year, in a letter to the Governor General dated October 10, 1848, the Bishop of Bytown asked that the same tract of land referred to in Chief Pakinawatick's petition be set aside for the Algonquins, accompanied by petitions signed by "Indians of the Gatineau" and "Indians of the Grand-Lake".

52. On February 20, 1849, the "Indians of Gatineau" sent another petition to the Governor General James Bruce stating that they were too far to cultivate lands at Lake of Two Mountains and requested land to cultivate at the River Desert. The petition was discussed within the Legislative Assembly on March 26, 1849.

53. On March 31, 1849, the Assistant Commissioner of Crown Lands, Tancred Bouthillier, replied to the Bishop of Bytown, stating "it is not probable the matter will be taken up before the end of the present session of parliament".

54. In April of 1849, Bouthillier wrote again to the Bishop of Bytown, informing him that the township of Maniwaki was reserved for the Algonquin petitioners until the executive might decide on their request, but added that “the Government has recently received representations on behalf of persons who say that they have considerable improvements within the limits of the tract requested by the Indians and they claim protection. But nothing will likely be done before the end of the present session of Parliament.”

55. On April 16, 1849, the Bishop of Bytown warned Governor General James Bruce that according to Bouthillier there were several claims against the petition of the Algonquins, and that this obliged the Department to wait longer before dealing with it. He also noted that the petition had been under consideration for eight years.

56. J. Leslie, Provincial Secretary, replied to the Bishop of Bytown’s April 16, 1849, request from the Governor General, noting that the paper had been sent to the Lands Commissioner’s Office.

57. The Bishop of Bytown wrote another petition to the Governor General on June 26, 1849, requesting that land be given to “Indians” living in the Timiscaming and Abitibi townships, and noting that the missionary there, Reverend Father Laverlochere, had already made requests to the government on behalf of the people there for land to be farmed.

58. Another letter from the Bishop of Bytown written in or around July of the same year informed the Governor General that Bouthillier had told him that there were complaints against the Indian petition for land on the Upper Gatineau and that the “ministry” would spend more time debating what to do with these requests.

59. In 1849, the Executive Council was preoccupied by the region of Saguenay Lac-St-Jean, where numerous complaints about colonization were made to the Department of Crown Lands, requiring better control of the distribution of lots. The Department of Crown Lands was thus aware of multiple concurrent interests between the Tribes of “Indians” and other parties in the Province.

60. In response to the many “Indian” petitions, the Assistant Commissioner of Crown Lands, Tancrid Bouthillier issued the two aforementioned reports to the government, the first of which dated July 11, 1849, and the second dated August 2, 1849.

61. The July 11th report contains two memos, the first dealing with the petition by the Algonquin “Indians” of the Lake of Two Mountains for lands on the Gatineau River, and the second concerning the petition for lands on Lake Temiskaming:

> The tract applied for lies between the River Blanche and the River Kipawesipi, is about 150 miles distant from surveyed township and would contain about one hundred thousand acres of land. A grant in that locality would interfere with no existing right, or privilege. But grants of this description must naturally be regulated by the numerical strength and wants of the Tribe or Tribes to be provided for, on these Lands further information might probably be obtained from the Indian Office.

62. On August 2, 1849, Bouthillier issued his second report, to the Committee of the Executive Council on Land Matters, which referred to two tribes, the Saguenay, or Montagnais, and those of the Ottawa, namely the Algonquin and the Nipissing. Because of its importance, a large part of the report is quoted here:

> The Nipissing & Algonquin Indians extend up the River Ottawa to theBoundaries of the Hudsons Bay Territory and spread on both sides of that River to the head waters of its tributaries. The Tetes de Boule another Branch of the Algonquin or Nipissing, inhabit the Banks & Tributaries of the River St. Maurice, and divide the Ottawa from the Saguenay Indians.
>
> The Algonquins have at different times claimed to be the proprietors (as the descendants of the Original possessors) of those Grounds, and as such to be indemnified, as other Indian Tribes have been in Upper Canada, for such portions of their hunting grounds as have been opened to settlement or laid out into Timber locations, but their pretentions in that respect have been negatived by former Governments and they have only been considered as entitled to limited grants of Land for actual settlement [...]
>
> Their present number, including the Tetes de Boule, who do not appear as yet to have Petitioned, but for whom it is advisable to provide along with the others, is estimated at 1000 families, from four to five thousand individuals. Most of the signers of the Petitioners now before government, if not all, are or were residents of the Village of the Lake of the Two Mountains, at the Indian Mission under the charge of the Revd Gentlemen of the Seminary of St-Sulpice, who, it is understood, obtained a grant of the Seigniory of that name on condition of their administrating to the Spiritual as well as temporal wants of the Indians who would resort to that mission. There is yet in that Seigniory, a Bloc of some 10,000 acres in reserve for them - but they are now, it appears, desirous of settling further up the river Ottawa where some of them have already commenced improvements.

> They apply, thro' His Lordship the Bishop of Bytown for a tract of land at the head of the Lake Temiscaming lying between the Rivers Blanche and Kepewasipi [Kipawa] which would contain about 100,000 acres - also, for a Township on the Gatineau bounded in front to the Eastward by that river at the North by the River Desert and at the South and West by lines to be drawn at sufficient distances to embrace an ordinary size Township of a about 60,000 acres.
>
> The first mentioned tract being far in advance of all settlement, would interfere with no existing right or privilege; the second should be so laid out as to exclude all squatters improvements, of whom there appear to be a certain number in that neighbourhood [sic], some of whom have already remonstrated against their holdings being transferred to the Indians [...].
>
> These various grants, if made according to the wishes of the Indians, must of course be sanctioned by Legislative enactments, but in the meantime it is suggested that the tracts mentioned be laid out and bounded in the field to prevent strangers intruding upon them, leaving it discretionary with the Government finally to appropriate a part or the whole, when in possession of more accurate information on the actual number of individuals or families to be provided for.

63. On August 7, 1849, in the Order-in-Council at the heart of this dispute, the Governor General in Council refers directly to the second report by Bouthillier in the official minutes of the Committee of the Executive Council:

> On the annexed Report of T Bouthillier, Esquire, Assistant Commissioner of Crown Lands, dated 2d August 1849, on the Petitions of the Saguenay and Ottawa Indians.
>
> The Committee recommend that the Honorable JB Taché, be instructed to investigate the Indian Lands on the Saguenay and that the Commissioner of Crown Lands be directed to set off the Lands on the Ottawa according to the annexed Report.

64. On August 18, 1849, Bouthillier sent survey instructions to the Provincial Land Surveyor, John Newman, requesting a survey of the outline of the Township of Natowese and Egan and the West bank of the Gatineau River in the County of Ottawa for a tract of land for the Indian Tribes in an approved report by Council dated August 7, 1849.

65. A petition dated August 30, 1849, from the Algonquin and Nipissing Chiefs requested that the Governor General recognize their right to lands.

66. On January 7, 1850, Bouthillier sent a letter to the Indian Affairs secretary's office, in which he explained that a survey had already been ordered at River Desert for the creation of a settlement there and that another survey would be carried out if required at the head of Lake Temiscaming. The information provided, including the papers relating to the August 7, 1849, Order-in-Council, was then forwarded to Robert Bruce, Superintendant General of Indian Affairs the same day.

67. In August 10, 1850, the legislature adopted *An Act for the better protection of the Lands and Property of the Indians in Lower Canada* (the 1850 Act), whose purpose was to "make better provision for preventing the encroachment upon and injury to the lands appropriated to the use of the several Tribes and Bodies of Indians in Lower Canada, and for the defence of their rights and privileges".

68. The 1850 Act created the position of Crown Commissioner of Indian Lands, who was conferred broad powers, including to manage lands that would be set apart for "any Tribe or Body of Indians".

69. On August 21, 1850, Père Aoustin, a missionary at Lake of Two Mountains, sent a petition to the Governor General on behalf of the Algonquins, Nipissings and Temiscamings residing at the Lake of Two Mountains mission. In the petition, Aoustin noted that the Temiskamings had been reduced to misery and only wanted to join their fathers in a single settlement.

70. On February 9, 1851, Francois Papino and the Principal Chiefs and heads of families of the Algonquin & Nipissing Indians of the Lake of Two Mountains sent a petition to the Commons of the Province of Canada United in Parliament. The petition explained the conditions of the people, how they had been deprived of their ancestral lands, and their wishes to improve upon those lands granted to them so as to be able to have a sustainable income.

71. In August of 1851 the legislature adopted *An Act to authorize the setting apart of lands for the use of certain Indian Tribes in Lower Canada* (the 1851 Act), pursuant to which the Commissioner of Indian Lands could, under the authority of orders-in-council, describe, survey and set apart lands reserved for Indians, which would then be vested in the Commissioner of Indian lands for Lower Canada at no charge and managed by him. Up to 230,000 acres for Indian Tribes would be made available. Lands would have to be described and surveyed and future Orders-in-Council would be required. Additionally, limited money would be paid to certain tribes yearly according to their numbers.

72. A December 1852 Order-in-Council passed pursuant to the 1851 Act stated “that it is exceedingly desirable that the land which the Government by the above-mentioned Act, is empowered to set apart for the benefit of the Indians should be vested in them with the least possible delay in order that they may settle and commence their operations without fear of molestation”.

73. Schedules were attached to the 1851 Act, listing and describing lands to eventually be set aside, including lands, at the head of Lake Temiscaming for the Nipissingues, Outaouais, and Algonquins, and, at the River Desert on the West Bank of the River Gatineau for the Algonquins, Nipissingues and Tetes de Boules. These schedules were drafted and periodically revised by Orders-in-Council, and the areas involved were gradually reduced and altered over time. The final schedule was created by the Government of the Province of Canada on January 29, 1853, and approved by Order-in-Council on August 9, 1853.

74. The Government’s rationale for reducing the size of the coming reserve at Timiskaming is explained in part in a January 12, 1853, letter on behalf of the Governor in Council to the Commissioner of Crown Lands.

75. On February 25, 1854, A.N. Morin, Crown Lands Department, sent survey instructions and a map to C.J. Bouchette, Surveyor, asking him to survey the land set aside for Indian Tribes at the head of Lake Temiscamingue.

76. In 1854, the Timiskaming reserve was created at the head of Lake Timiskaming in accordance with the final schedule approved in 1853.

VI. Relief (R. 42 (f))

77. Canada seeks the following relief :

    a) to have the claim dismissed in its entirety;

    b) In the event the claim is allowed, that the total compensation awarded :

        i. in favour of the TFN take into account the fact that a reserve was created for them in the year 1854 and that such estimated amount be deducted from such an award in favour of the TFN; and

ii. in favour of WLFN take into account the 1988 claim by WLFN, that Canada admitted validity in the 1988 Claim of WLFN, and, that any compensation awarded by the Tribunal or any negotiated amount and value of land given be deducted from the amount awarded in favour of WLFN.

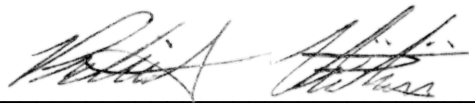
c) costs; and

d) such further relief as this Honourable Tribunal deems just.

VII. Communication (R. 42(g))

78. The Respondent's address for the service of documents is hereafter stated in the signature of the proceeding.

Ottawa, this 21st day of September, 2020



ATTORNEY GENERAL OF CANADA
Department of Justice Canada - QRO (Ottawa)
284, Wellington SAT-6th floor
Ottawa (Ontario) K1A0H8
Télécopieur: (613) 952-6006

Per:
Patrick Visintini
Tel : (613) 952-1084
Email: patrick.visintini@justice.gc.ca

And

Eric Gingras
Tel : (613) 946-2771
Email : eric.gingras@justice.gc.ca

Solicitors for the Respondent,
Her Majesty the Queen in Right of Canada