

SPECIFIC CLAIMS TRIBUNAL		
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Ottawa, ON		1

Tribunal File No.: SCT - 4001 - 25

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

BLACK RIVER FIRST NATION

Claimant

and

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

Respondent

DECLARATION OF CLAIM
Pursuant to Rule 41 of the
Specific Claims Tribunal Rules of Practice and Procedure

This Declaration of Claim is filed under the provisions of the *Specific Claims Tribunal Act*, SC 2008, c 22, and the *Specific Claims Tribunal Rules of Practice and Procedure*, SOR/2011-119.

March 4, 2026

Date

Katherine Richard

Registry Officer

TO: Assistant Deputy Attorney General, Litigation, Justice Canada
Bank of Canada Building, 234 Wellington Street East Tower
Ottawa, Ontario K1A 0H8
Fax Number: (613) 954-1920

I. Claimant (Subrule 41(a) of the *Rules*)

1. The Claimant, Black River First Nation, is a First Nation within the meaning of subsection 2(a) of the *Specific Claims Tribunal Act*, SC 2008, c 22 (the “*SCTA*”), by virtue of being a “band” within the meaning of the *Indian Act*, RSC 1985, c. I-5. The Black River Indian Reserve No. 9 is located on the shores of Lake Winnipeg in the Province of Manitoba.

II. Conditions Precedent (Subrule 41(c) of the *Rules*)

2. The following conditions precedent as set out in subsection 16(1) of the *SCTA* have been fulfilled:

16(1) A First Nation may file a claim with the Tribunal only if the claim has been previously filed with the Minister and

(a) the Minister has notified the First Nation in writing of his or her decision not to negotiate the claim, in whole or in part;

3. The First Nation originally filed a claim respecting various breaches by the Crown relating to its failure to provide agricultural and other benefits promised under Treaty 5 as well as other breaches of Canada’s treaty, legal, trust, fiduciary, and equitable obligations, with the Minister on April 29, 2024 (the “Claim”).
4. On December 17, 2024, Canada advised the First Nation of its decision to negotiate the claim. The First Nation accepted Canada’s offer to negotiate the Claim on December 31, 2024.
5. In January 2025 the parties commenced settlement negotiations regarding the Claim. On March 19, 2025, the First Nation accepted an offer of compensation from Canada.
6. On March 22, 2025, the First Nation confirmed acceptance of a revised offer of compensation for additional damages from Canada. The only tasks remaining related to the drafting and completion of the technical settlement documents.

7. On March 24, 2025, a federal general election was called and negotiations were paused by Canada were because of the “caretaker convention” regarding general elections.
8. The Honourable Rebecca Alty was appointed Minister of Crown-Indigenous Relations and Northern Affairs Canada on May 13, 2025.
9. On June 24, 2025, Canada advised that it did not have a mandate to resume negotiations with the First Nation.
10. On August 13, 2025, Canada again advised that it did not have a mandate to resume negotiations with the First Nation.
11. On October 15, 2025, Canada again advised that it did not have a mandate to resume negotiations with the First Nation.
12. On January 7, 2026, Canada again advised that it did not have a mandate to resume negotiations with the First Nation.
13. On March 2, 2026, counsel for the First Nation requested an update on Canada’s mandate, to which Canada has not responded.
14. Despite accepting the claim for negotiation and despite coming to agreement on compensation, Canada has now repeatedly notified the First Nation of its decision not to negotiate the claim. As a result, the requirements of subsection 16(1)(a) of the *SCTA* are satisfied.

III. Claim Limit (Paragraph 20(1)(b) of the *SCTA*)

15. For the purposes of this Claim, the Claimant(s) does not seek compensation in excess of \$150 million.

IV. Grounds (Subsection 14(1) of the *SCTA*)

16. The First Nation submits that the Claim falls within subsection 14(1) of the *SCTA* which states:

14(1) Subject to sections 15 and 16, a First Nation may file with the Tribunal a claim based on any of the following grounds, for compensation for its losses arising from those grounds:

(a) A failure to fulfill a legal obligation of the Crown to provide lands or other assets under a treaty or another agreement between the First Nation and the Crown; [...]

(c) a breach of a legal obligation arising from the Crown's provision or non-provision of reserve lands, including unilateral undertakings that give rise to a fiduciary obligation at law, or its administration of reserve lands, Indian moneys or other assets of the First Nation;...

17. In particular, the Crown has failed to fulfill its legal obligation to provide agricultural benefits and instruction to the First Nation pursuant to the terms of Treaty 5.

V. Allegations of Fact (Subrule 41(e) of the *Rules*)

18. The written terms of Treaty 5 contain explicit promises and benefits to be provided by the Crown including, inter alia, the following:

...to lay aside reserves for farming lands, due respect being had to lands at present cultivated by the said Indians, and other reserves for the benefit of the said Indians, to be administered and dealt with for them by Her Majesty's Government of the Dominion of Canada, provided all such reserves shall not exceed in all one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families...

...

It is further agreed between Her Majesty and the said Indians that the sum of five hundred dollars per annum shall be yearly and every year expended by Her Majesty in the purchase of ammunition, and twine for nets, for the use of the said Indians, in manner following that is to say; in the reasonable discretion as regards the distribution thereof among the Indians inhabiting the several reserves or otherwise included therein of Her Majesty's Indian Agent have the supervision of this treaty.

...that the following articles shall be supplied to any band of the said Indians who are now cultivating the soil, or who shall hereafter commence to cultivate the land, that is to say: Two hoes for every family actually cultivating; also one spade per family as aforesaid; one plough for every ten families as aforesaid; five harrows for every twenty families as aforesaid; one scythe for every family

as aforesaid, and also one axe; and also on cross-cut saw, one hand-saw, one pit-saw, the necessary files, one grindstone, and one auger for each band; and also for each Chief, for the use of his band, one chest of ordinary carpenter's tools; also for each band enough wheat barley, potatoes and oats to plant the land actually broken up for cultivation by such band; also for each band one yoke of oxen, one bull and four cows all the aforesaid articles to be given, once for all for the encouragement of the practice of agriculture among the Indians.

19. The First Nation adhered to Treaty 5 on September 7, 1876.
20. In 1875, prior to its formal adhesion to Treaty 5, the First Nation had requested a reserve at Black River and hand carpentry tools in 1875. There is no evidence the hand carpentry tools were ever received by the First Nation.
21. In 1876, the Crown adopted a policy that only those Treaty 5 bands settled on reserves will receive treaty cattle.
22. Indian Commissioner J.A.N. Provencher signed the adhesion on behalf of the Crown. Provencher was a proponent of a liberal interpretation of the agricultural treaty promise which in his view included both the promised goods as well as instruction in an agricultural livelihood. The First Nation again asked for a reserve at Black River.
23. A 2000-acre reserve was surveyed for the First Nation at Black River in 1877.
24. The First Nation did not receive the full complement of agricultural benefits and assistance promised under Treaty 5.

VI. The Basis in Law on Which the Crown is Said to Have Failed to Meet or Otherwise Breached a Lawful Obligation

25. The Claim is brought on the grounds that Canada breached its treaty, legal, trust, fiduciary and equitable obligations to the First Nation in its failure to fulfil the written promises of Treaty 5 for the provision of agricultural benefits and instruction, including:
 - a. the failure to fulfil the First Nation's entitlement to agricultural implements, tools, livestock, and seed for the cultivation and encouragement of agriculture; and

- b. The failure to fulfil the First Nation's entitlement to agricultural instruction.
26. Notwithstanding that the Crown failed to provide the benefits promised under a strict, literal, reading of Treaty 5, it is also clear that the written terms of Treaty 5 do not represent the full extent of the Crown's treaty promises respecting agricultural benefits and instruction. In particular, the Crown's fundamental treaty obligation was to support the First Nation and provide the means to transition to an agricultural economy. In this context, the Crown has not only breached the written terms of Treaty 5, but also its fiduciary and other legal duties by failing to uphold the purpose and intent of the agricultural benefits and instruction clauses.
27. The First Nation pleads and specifically relies upon the established principles of treaty interpretation and the honour of the Crown, including but not limited to those enunciated by the Supreme Court of Canada in *R v Marshall*, 2005 SCC 43, to the effect that treaties should be liberally construed, treaty rights are not frozen at the date of treaty, and must be updated and implemented in a manner consistent with equivalent modern practices.
28. The First Nation further pleads that to the extent that the Crown misadministered or failed to keep important records related to the provision of Treaty 5 benefits, such misadministration leads to an evidentiary presumption in favour of the First Nation.
29. The First Nation further pleads that the honour of the Crown was at stake when negotiating and implementing the terms of Treaty 5, and that the Crown failed to uphold its honourable obligations with respect to the provision of agricultural benefits and instruction to the First Nation.
30. The Crown has accepted the Claim for negotiation but refuses to continue negotiations, resulting in the parties being unable to reach agreement on the quantification of compensation.

VII. Relief Sought

31. In light of the foregoing, the First Nation seeks the following relief:

- a. Equitable compensation for the Crown’s breach of its treaty, fiduciary, trust, and honourable duties;
- b. Costs on a solicitor-client basis resulting from the Crown’s bad faith conduct during settlement negotiations; and
- c. Such other damages or compensation as this Honourable Tribunal deems just.

Dated this 4th day of March, 2026, at the Municipality of Headingley in the Province of Manitoba.

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