

SPECIFIC CLAIMS TRIBUNAL		
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	July 10, 2025	
	Mark Chamoun	
Ottawa, ON		4

SCT File No.: SCT-5001-25

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

PASQUA FIRST NATION

Claimant

v.

HIS MAJESTY THE KING IN 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: Pasqua First Nation
As represented by Ryan M. Lake, Shane Varjassy and Anjalika Rogers,
Maurice Law Barristers & Solicitors
#300, 602 12th Ave SW
Calgary, AB T2R 1J3
Phone: (403) 266-1201
Fax: (403) 266-2701
Email: rlake@mauricelaw.com,
svarjassy@mauricelaw.com
arogers@mauricelaw.com

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. 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 claim proceeds through the Tribunal process.
3. In this Response, Canada periodically uses terminology now recognized as antiquated. Canada does so only when required for legal accuracy or when referring to or quoting from historical sources.
4. This claim relates to whether Canada mismanaged moneys in Pasqua First Nation's capital and revenue accounts, including but not limited to land sale proceeds following the surrender of approximately 16,077 acres of land from Indian Reserves (IR) No. 79 in 1906.
5. Canada admits it has a statutory duty to properly administer the funds in Pasqua First Nation's capital and revenue accounts in accordance with the *Indian Act*. Canada does not admit that it breached any treaty, fiduciary or statutory duties in its administration of the sale proceeds or any other funds in the Pasqua First Nation's capital and revenue accounts. Canada states that any claim in respect of the alleged misadministration of the sale proceeds of the 1906 land surrender was the subject of a previously executed settlement agreement and release.
6. At all times, Canada conducted itself in accordance with the honour of the Crown. In the spirit of reconciliation, Canada will cooperate with Pasqua First Nation to obtain more detailed expert and documentary evidence to inform discussions between the parties regarding Canada's management of the capital and revenue accounts.

Status of Claim

7. Canada admits that Pasqua First Nation is a First Nation within the meaning of section 2 of the *Specific Claims Tribunal Act*, SC 2008, c 22 (*SCTA*), as pled in paragraph 1 of the Declaration of Claim.
8. Canada admits, in response to paragraphs 2 and 6 of the Declaration of Claim, that this claim meets the condition precedent as set out in paragraph 16(1)(b) of the *SCTA*. Canada acknowledges that Pasqua First Nation has brought their claim pursuant to sections 14(1)(a), (b), and (c) of the *SCTA*.
9. As pled in paragraphs 3 and 4 of the Declaration of Claim, Canada admits:
 - a. Pasqua First Nation submitted the specific claim to the Specific Claims Branch. Canada admits that the claim was submitted on December 2, 2021;
 - b. The claim alleged mismanagement of Pasqua First Nation's capital and revenue accounts;
 - c. Pasqua First Nation's claim was deemed filed with the Minister on March 15, 2022; and
 - d. Pursuant to section 16(1)(b) of the *SCTA*, more than three years had elapsed after the day on which the claim was filed with the Minister and the Minister had not, prior to the filing of the Declaration of Claim, advised Pasqua First Nation in writing of their decision on whether to negotiate the claim.
10. Canada acknowledges that for the purposes of this claim, Pasqua First Nation is not seeking compensation in excess of \$150 million, as pled in paragraph 5 of the Declaration of Claim.

Canada's Position with Respect to Validity of the Claim

11. In response to the claim as a whole, Canada does not admit the allegations of mismanagement of funds connected to proceeds received from the 1906 surrender and other sources, and that the facts establish a valid claim under the *SCTA*.
12. In response to paragraph 91 of the Declaration of Claim, Canada does not agree that it directed expenditures from Pasqua First Nation's capital and revenue accounts in a way that was contrary to the *Indian Act*. Canada does not admit that it breached its statutory obligations in relation to managing Pasqua First Nation's capital and revenue accounts.
13. In response to paragraphs 75, 81, 91, 92, 97 and 100 of the Declaration of Claim, Canada states that the management of expenditures of sale proceeds complied with the surrender document, the *Indian Act* and Canada's policies. Canada says that the evidence does not support an outstanding lawful obligation to Pasqua First Nation for alleged breach of treaty, breach of statutory duty, breach of trust or breach of fiduciary duty.
14. In response to paragraph 99 of the Declaration of Claim, at all times, Canada acted in the best interest of Pasqua First Nation in managing its capital and revenue accounts. Canada does not admit the allegation that Canada allowed its self-interest to conflict with and prevail over Canada's obligations to Pasqua First Nation, nor did it place the interests of third parties over those of Pasqua First Nation.
15. In response to paragraph 101 of the Declaration of Claim, Canada does not admit that:
 - a. It was unjustly enriched to the detriment of Pasqua First Nation;
 - b. It breached obligations as a trustee, if any;

- c. It breached statutory, fiduciary or other obligations owing to Pasqua First Nation;
- d. Pasqua First Nation is entitled to equitable compensation for the loss of trust property, breach of treaty, breach of surrender obligations, breach of trust obligations or any other breach as specified in the Declaration of Claim; or
- e. That Pasqua First Nation is entitled to costs on a solicitor and client basis, or otherwise.

Canada's Position with Respect to Allegations of Fact

- 16. In response to the first sentence of paragraph 29 of the Declaration of Claim, the second sentence of paragraph 59 of the Declaration of Claim, and the entirety of paragraphs 10, 28, 32, 45, 48, 58, and 60 of the Declaration of Claim, Canada states that these statements constitute argument, opinion and/or statements of legal conclusion and thus contain no discernible facts to admit or deny.
- 17. In response to paragraph 7 of the Declaration of Claim, Canada admits that Chief Pasqua and his band resided near Leech Lake, Saskatchewan. While Canada further admits that the Pasqua band survived off of the land, including the buffalo, it has no specific knowledge of the size of the cattle herd or agricultural production undertaken.
- 18. In response to paragraphs 8 and 11 of the Declaration of Claim, Canada admits that Chief Pasqua signed Treaty 4 on September 15, 1874, on behalf of Pasqua First Nation and that negotiations and discussion between Canada and Pasqua First Nation, took place. Canada admits that individuals named Alexander Morris, David Laird, W.J. Christie, Loud Voice, and Cote participated in the negotiations, but Canada requires further historical research to confirm their asserted roles.

19. In response to paragraph 9 of the Declaration of Claim, Canada admits that it purchased Rupert's Land for £300,000. Canada further admits that the quotes referred to in paragraph 9 were made. Canada does not admit that the funds should have been paid to the Cree and Saulteux bands.
20. In response to paragraph 10 of the Declaration of Claim, Canada does not admit that any statements made were intended to be, or are, an oral term of Treaty 4 regarding the role of the government in the personal financial affairs of First Nation people.
21. With response to paragraph 26 of the Declaration of Claim, Canada states it did not seek a surrender from all bands with an interest in Long Lake Reserve No. 80A. Canada admits the remainder of statements of fact in paragraphs 12-18 and 24-27 of the Declaration of Claim in their entirety.
22. In response to paragraph 19 of the Declaration of Claim, Canada agrees that until 1912, 10% of revenue from First Nations' land sales were charged and invested to the credit of the Indian Land Management Fund (ILMF). Canada states this was its policy until 1912; however, Canada does not admit that this creates an implied condition on all surrenders.
23. In response to paragraph 20 of the Declaration of Claim, Canada says that while the funds were invested in provincial debentures at a fixed rate of 6%, they were also sometimes invested in Provincial debentures at a fixed rate of 3%. Canada admits the other facts asserted in this paragraph, including that the ILMF was to be maintained by taking 10% from the collection of land and timber sales across the country.
24. In response to paragraph 21-23 of the Declaration of Claim, Canada states that the Superintendent General of Indian Affairs, Frank Oliver, wrote a memorandum in 1906, recommending that the Privy Council authorize a surrender of lands on the Muscowpetung and Pasqua Reserves. In this recommendation, Frank Oliver notes

that a 10% distribution to members would likely be required and that the advance could come from the ILMF and be repaid once the land is sold.

25. Canada acknowledges that the ILMF was not completely self-supporting and that the ILMF was eventually discontinued. Canada does not agree with the assertion that the West was required to subsidize the East as part of the ILMF program. Canada does not have specific knowledge of the other asserted facts in paragraphs 21-23 and requires further historical research to confirm.
26. In response to paragraph 28 of the Declaration of Claim Canada acknowledges that while it implemented policies with respect to on-reserve finances and farming, it does not admit that these policies were premised on a destructive attitude or intended to save Canada money.
27. In response to paragraphs 29-32 of the Declaration of Claim, Canada admits that it created the Permit System and that the Permit System regulated individual members of First Nations in the sale of their agricultural goods without a permit. Canada does not admit the description of the intent and impact of the Permit System.
28. In response to paragraphs 33-43 and 54-58 of the Declaration of Claim, Canada states that the Order System initially involved the use of standard order forms to allow an individual member of a First Nation to purchase goods from a merchant. A policy existed to prevent the use of band funds to pay debts incurred under the system. Canada acknowledges that the Order System was overseen by Indian Agents but does not admit the characterization of the intent and efforts of the Indian Agents.
29. While Canada admits that the Order System had the effect of limiting the availability of credit to First Nation farmers, Canada does not agree with the characterization of the intent of the Order System. Canada further does not admit that the Order System resulted in significant loss of trust funds either from capital expenditures or otherwise. Canada further does not admit that it permitted trust funds to be used to

clear the debts of individual members contrary to the *Indian Act* or any other obligations it might have.

30. In response to paragraphs 44 and 45 of the Declaration of Claim, Canada states that the Pass System required individual members of First Nations to obtain passes to leave their reserve. Canada does not admit any of the facts asserted within these paragraphs including that the Pass System was intended to bolster a policy of colonizing the west.
31. In response to paragraph 46 of the Declaration of Claim, Canada admits that the Birtle System was for loaning cattle. Canada does not admit the remainder of the paragraph.
32. In response to paragraphs 47 and 48 of the Declaration of Claim, Canada states the Peasant Farming Policy was initiated in 1888, under Deputy Superintendent General of Indian Affairs Hayter Reed. Under the policy, Canada did not provide money for modern (at the time) machinery and equipment, but rather funded equipment and activities that encouraged self-sufficiency.
33. In response to paragraphs 49-53 of the Declaration of Claim, Canada admits that the Greater Production Scheme was established in 1918. Canada admits that in 1918, section 90(3) was added to the *Indian Act* and that it allowed for the Superintendent General to lease uncultivated reserve lands without a surrender. Canada agrees that the Greater Production Scheme was phased out by 1922. Canada does not admit the remaining asserted facts.
34. In response to paragraph 59 of the Declaration of Claim, Canada admits that in some instances “Indians” in the Qu’Appelle Agency became indebted to their respective capital and revenue accounts and did not repay those debts. Canada does not admit and requires further research to confirm the number of First Nation’s peoples in the Qu’Appelle Agency who became indebted, the quantum of the debt, and the number

of First Nation's peoples who did not repay their debt. Canada does not admit that the debts taken out by individuals depleted capital and revenue accounts by the end of the 1930s.

35. In response to paragraph 60 of the Declaration of Claim, Canada admits that there were some individual debts owed in the Qu'Appelle Agency and that the Department of Indian Affairs did write off certain debts. However, Canada does not admit and requires further research to confirm the quantum of the debt owed and whether there were large-scale debt write offs.
36. In response to paragraph 61 of the Declaration of Claim, Canada admits that R.S. Davis, an Indian Agent, sent a letter to the Secretary, Department of Indian Affairs dated February 10, 1934. Canada admits the outlined expenses were attached and states that two members of Pasqua First Nation were listed on the ledger titled "debts owing by able-bodied Indians engaged in farming or cattle raising on December 31, 1933".
37. Canada admits paragraphs 62 of the Declaration of Claim in its entirety, including the contents of the list.
38. In response to paragraphs 63 and 64 of the Declaration of Claim, Canada admits that it received the letters of March 6, 1940 and April 15, 1940. Canada further admits that the quotes in the Declaration of Claim were made in the letters received.
39. In response to paragraphs 65 and 66 of the Declaration of Claim, Canada states that a letter dated July 29, 1943 was sent by D.J. Allan reporting on the debt situation in the Qu'Appelle Agency. This report states that 23 members of Pasqua First Nation owed debts totalling \$2,538.97. Another letter was sent dated August 5, 1943 by D.J. Allan reporting on the debt situation in the Qu'Appelle Agency. Canada is unable to locate a letter from July 30, 1943 and requires further research to determine the contents.

40. In response to paragraph 67 of the Declaration of Claim, Canada admits the first sentence. In response to the second sentence, Canada admits the facts; however, Canada would add that the distribution of \$9,000.00 was made to three Bands. Canada does not admit and requires further research to confirm the last sentence.
41. In response to paragraph 68 of the Declaration of Claim, Canada states that Frank Booth sent a reply in a letter dated September 30, 1943 to D.J. Allan's letter dated August 5, 1943. Canada admits that the statements included at paragraph 68 were made within this letter. Canada states that in the letter Frank Booth opined that better results could not have been obtained due to the conditions brought by the depression.
42. In response to paragraph 69 of the Declaration of Claim, Canada does not admit the facts pled and requires further investigation to confirm.
43. Canada admits paragraph 70 of the Declaration of Claim in its entirety.
44. In response to paragraph 71 of the Declaration of Claim, Canada admits that there were debt write-offs that occurred in the 1930s from the Pasqua Band capital and revenue accounts account; however, Canada does not admit that these accounts saw major losses as a result or that the changes affected the balance in the account
45. In response to paragraphs 72-74 of the Declaration of Claim, Canada admits it is responsible for the management and administration of Pasqua First Nation's capital and revenue accounts, and that the provisions of the *Indian Act* and related regulations and policies legislated how Canada was to maintain and expend moneys in the capital and revenue accounts. Canada further admits that the *Indian Act* addressed the various approvals required prior to Canada making particular expenditures.
46. In response to paragraphs 75 and 76 of the Declaration of Claim, Canada states the current evidentiary record lacks sufficient detail to conclude that Canada improperly expended any funds from Pasqua First Nation's capital and revenue accounts.

47. Canada states that it is unclear how Pasqua First Nation calculated the figures in paragraph 76 of the Declaration of Claim. Canada will work cooperatively with the Pasqua First Nation to obtain more detailed documentary and expert evidence to determine any areas of agreement regarding the expenditures from the capital and revenue accounts. Canada is not in a position to admit or deny those statements.
48. Canada states that some Orders in Council and supporting documents authorizing certain expenditures appear to be missing from the evidentiary record. Canada will work cooperatively with Pasqua First Nation to obtain a more detailed and complete record. This will allow for a more complete analysis of whether the expenditures listed in paragraph 76 of the Declaration of Claim were contrary to the *Indian Act* or Canada's policies.
49. In further response to paragraphs 72, 75 and 76 of the Declaration of Claim, Canada does not admit that it improperly expended funds from Pasqua First Nation's capital and revenue accounts in breach of its fiduciary and other lawful obligations. Nor does Canada admit that expenditures recorded in the band ledgers were contrary to the legislation in force at the time.
50. In response to paragraphs 72 and 77-81 of the Declaration of Claim, Canada states that Treaty 4 is silent on the management of proceeds from surrendered land sales. The surrender document contains no reference to Treaty 4. Canada states that it complied with the surrender document in expending the sale proceeds.
51. In response to paragraph 81 of the Declaration of Claim, Canada does not admit that Treaty 4 promises proceeds from the sale of reserve land would be kept safe and increase over time, nor that Treaty 4 obligates Canada to protect First Nations' capital and revenue monies or to ensure that they accrue interest so as to ensure that the capital and revenue monies increase.
52. In response to paragraph 82 of the Declaration of Claim, Canada states that it fulfilled the surrender terms and discharged its post-surrender fiduciary obligations set out in

the land surrender document by selling the land and making the appropriate deductions for management expenses and authorized distributions. Canada further states it was appropriate to deposit the sale proceeds into Pasqua First Nation's capital account and to deposit accrued interest into the revenue account.

53. Canada further states that the matter of the 1906 Surrender was the subject of a previous claim before the Tribunal. Canada states that all matters relating to the 1906 Surrender, including the use of any funds arising from the 1906 Surrender and land sale, are the subject of a Settlement Agreement and release and therefore, cannot be the subject of this dispute.
54. In response to paragraphs 83 and 84 of the Declaration of Claim, Canada admits that it owes a statutory duty to Pasqua First Nation to administer the funds in the Pasqua First Nation's capital and revenue accounts in accordance with the *Indian Act*. Canada does not admit that it breached the statutory duty owed to Pasqua First Nation.
55. In response to paragraph 85 of the Declaration of Claim, Canada states that Pasqua First Nation had a capital and revenue account during the relevant claim period. Canada states that proceeds from the sale of surrendered reserve lands were deposited into Pasqua First Nation's capital account, while interest earned on sale proceeds were deposited into Pasqua First Nation's revenue account.
56. Canada agrees that the 1886, 1906, and 1927 versions of the *Indian Act* contain provisions that govern the management of Indian moneys as set out in paragraphs 86-90 of the Declaration of Claim. However, Canada does not admit that the relevant provisions of the *Indian Act* have been correctly stated in paragraphs 86-90 of the Declaration of Claim.
57. Canada admits the balance of the sections of the historic versions of the *Indian Act* quoted in paragraphs 86-88 of the Declaration of Claim. With respect to paragraph

88, Canada states that section 166 of the *Indian Act, 1906* (RSC 1906, c 81) provided that band consent could also be obtained by way of a membership vote.

58. In response to paragraphs 92-100 of the Declaration of Claim, Canada states while in some circumstances interactions with an Indigenous group may give rise to a fiduciary duty, it has no fiduciary duty to invest Pasqua First Nation's money or sale proceeds in a particular manner. Canada admits that the balance of the sale proceeds, after all distributions were paid, were to be placed to the credit of Pasqua First Nation with interest paid annually or semi-annually, according to the surrender terms. Canada fulfilled its statutory duties by complying with the *Indian Act* in managing Pasqua First Nation's capital and revenue accounts.

59. In further response to paragraphs 92-100 of the Declaration of Claim, Canada states that the management of expenditures of sale proceeds complied with the surrender document, the *Indian Act* and Canada's policies. Canada says that the evidence does not support an outstanding lawful obligation to Pasqua First Nation for alleged breach of treaty, breach of statutory duty, breach of trust or breach of fiduciary duty.

60. In response to paragraph 98 of the Declaration of Claim, Canada acknowledges that Pasqua First Nation has supplied some details of the capital and revenue deposits and expenditures used to support its specific claim submission. Canada states that to properly evaluate Pasqua First Nation's claim, further details and evidentiary support will be required. Canada will work cooperatively with Pasqua First Nation to obtain a more detailed and complete record.

Canada's Statement of Facts

61. In September 1874, Canada sent a delegation to Fort Qu'Appelle to conduct treaty negotiations on behalf of the Crown with First Nations. The delegation left Fort Garry on August 26, 1874, and arrived at Fort Qu'Appelle on September 8, 1874. The Crown's delegation included Lieutenant-Governor Morris, Minister Laird, and Commissioner Christie, a retired Hudson's Bay Company factor. The Crown's

delegation was accompanied by two individuals acting as interpreters, Charles Pratt and William Daniel, and by militia. Canada does not currently have knowledge as to the number of militia or persons gathered for the treaty negotiations, but states that the First Nation individuals gathered for those negotiations numbered fewer than 2,000. The Treaty 4 negotiations spanned the course of several days from September 8 to 15, 1874.

62. On September 15, 1874, Chief “Pis-qua” and his Band adhered to Treaty 4, which stipulated that reserves would be laid out for the benefit of the First Nations peoples not exceeding a total of one square mile for each family of five. The treaty stated that the reserves would be set aside for each band at a location to be determined after consultation with the First Nations peoples of the area.
63. In October 1876, William Wagner, Dominion Land Surveyor, surveyed Indian Reserve (IR) 79, situated on the right bank of the Qu’Appelle River near Fort Qu’Appelle, now in the Province of Saskatchewan, for Chief Pasqua. The reserve contained an area of 60.2 square miles. The survey was approved on January 23, 1889. On May 17, 1889, Order-in-Council P.C. 1151 approved the reserve.
64. In 1906, Pasqua First Nation surrendered 16,077 acres of land from IR No. 79. In 2018, a Settlement Agreement was entered into between Canada and Pasqua First Nation concerning the surrender of these 16,077 acres.
65. Canada fully discharged the surrender terms, depositing the sale proceeds into Pasqua First Nation’s capital account. Interest on the land sales was credited to Pasqua First Nation’s interest account. All funds deposited into Pasqua First Nation’s accounts were managed by Canada in accordance with the *Indian Act* and related regulations and policies. Throughout the claim period, Canada has adhered to the agricultural policies affecting prairie First Nations such as Pasqua First Nation.
66. Pasqua First Nation has executed several band council resolutions in relation to the approval of expenditures, including for a separator and engine in 1913, a threshing

machine in 1917, and buying seed and wheat in 1933 and 1935. Where necessary, the Committee of the Privy Council, as approved by the Governor General, has explicitly approved these expenses as well.

67. Canada states that it made all distributions from Pasqua First Nation's capital and revenue accounts in compliance with the surrender terms and the *Indian Act*. Canada did not breach any legal, trust, statutory, treaty, fiduciary, and/or equitable obligations to Pasqua First Nation relating to management of the capital and revenue accounts at any time.
68. In the alternative, Canada states that if a breach of the *Indian Act* in connection with expenditures is found, any benefit of the expenditures to Pasqua First Nation should be set off against any losses found to have occurred. Compensation should only be awarded in respect of expenditures for which Pasqua First Nation did not receive a benefit or received an inadequate benefit.

Canada's Statement of Relief

69. Canada seeks the following relief:
- a. Dismissal of the claim;
 - b. In the alternative, should any expenditure be found to lack proper authorization or be otherwise inappropriate, Canada relies upon s. 20(3) of the *SCTA* and seeks to set off the value of the benefit received by Pasqua First Nation from any compensation deemed owing;
 - c. Canada may decide not to seek costs upon the final determination of the proceedings; however, it reserves the right to seek such costs; and

d. Such further relief as counsel may request and this Honourable Tribunal deems just

Communication (R. 42(g))

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

Department of Justice (Canada)
Prairie Regional Office (Saskatoon)
Saskatoon Square
410 – 22nd Street East, 4th floor, Suite 410
Saskatoon, SK S7K 5T6
Attention: Travis Kusch and Emily Arthur

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

Email address for service is: travis.kusch@justice.gc.ca;

Emily.arthur@justice.gc.ca; sasksct-5001-25-pasquafirstnation@justice.gc.ca

Dated this 10th day of July, 2025.



ATTORNEY GENERAL OF CANADA

Department of Justice
Prairie Regional Office (Saskatoon)
Saskatoon Square
410 – 22nd Street East, 4th floor, Suite 410
Saskatoon, SK S7K 5T6

Fax: (306) 975-4030

Per: Travis Kusch and Emily Arthur

Tel: (639) 384-4508 / (306) 914-5900

E-mail address: travis.kusch@justice.gc.ca

Emily.arthur@justice.gc.ca

sasksct-5001-25-pasquafirstnation@justice.gc.ca

Counsel for the Respondent.