

**FILE NO.:** SCT-3002-11  
**CITATION:** 2012 SCTC 5  
**DATE:** 20120724

**SPECIFIC CLAIMS TRIBUNAL**  
**TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

**BETWEEN:**

BIG GRASSY  
(MISHKOSSIMIINIIZIIBING) FIRST  
NATION (INDIAN BAND)

Claimant

– and –

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

Respondent

Donald R. Colborne, for the Claimant

John Syme, for the Respondent

**HEARD:** July 16, 2012

**REASONS FOR DECISION**

**Honourable G. Patrick Smith**

[1] The Big Grassy (Mishkosiimiiniizibing) First Nation Indian Band (“Big Grassy”) brings this claim against the Respondent, Her Majesty the Queen in Right of Canada for compensation for land expropriated from Indian reserve 35G in the years 1933 and 1941.

[2] The Respondent filed an application for an order directing that the claimant bears the burden of proof to establish that it suffered the losses as alleged, that those losses were caused in whole or in part by the Respondent and the amount of the loss associated with each item in respect of which compensation is claimed.

[3] The claim is in its early stages. The parties have not begun the process of production and disclosure nor have they proceeded to examinations as provided for in the Tribunal rules.

[4] The Specific Claims Tribunal Act is silent with respect to the issue of the burden of proof.

[5] The legal burden of proof normally arises after the evidence has been completed and after a party has first satisfied an evidential burden in relation to that fact or issue. To make a ruling at this stage in this proceeding is premature. An order would also have the appearance of setting a precedent for other claims which is unwarranted.

[6] At the conclusion of the hearing Counsel for the claimant sought to introduce certain material consisting of:

- a commentary column that appeared in the June 12, 2012 edition of the Globe and Mail newspaper, a copy of an article appearing in the June 7, 2012 3edition of the Tyee newspaper;
- a letter dated May 7, 2012 written by Karen Adams, President of the Canadian Library Association to the Minister of Canadian Heritage expressing concern about the effect budget cuts will have on libraries and research;
- a letter dated May 30, 2012 from the Union of British Columbia Indian Chiefs to the Minister of Canadian Heritage expressing concern regarding the elimination of the National Archival Development Program; and

- an article dated May 2, 2012 regarding budget cuts from the CBC website.

[7] With regards to the admissibility of these materials I agree with the Respondent and find that this material is hearsay, irrelevant and should not be admitted into evidence and so rule.

[8] The application is dismissed. Counsel will file written argument with respect to the issue of costs within 30 days.

PATRICK SMITH

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Honourable Patrick Smith  
Tribunal Member

**SPECIFIC CLAIMS TRIBUNAL  
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES**

**Date: 20120716**

**File No.: SCT-3002-11**

**OTTAWA, ONTARIO July 16, 2012**

**PRESENT: Honourable G. Patrick Smith**

**BETWEEN:**

**BIG GRASSY (MISHKOSSIMIINIIZIIBING) FIRST NATION (INDIAN BAND)**

**Claimant**

**and**

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

**Respondent**

**COUNSEL SHEET**

**TO: Counsel for the Claimant BIG GRASS (MISHKOSSIMIINIIZIIBING)  
FIRST NATION (INDIAN BAND)  
As represented by Donald R. Colborne  
Barrister and Solicitor**

**AND TO: Counsel for the Respondent  
As represented by John Syme  
Department of Justice**