

This is the 1st affidavit of  
D. Stone in this case and  
was made on 20 Oct. 2010



No. S087266  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

BOSS POWER CORP. and BLIZZARD URANIUM CORP.

Plaintiffs

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE  
OF BRITISH COLUMBIA

Defendant

***AFFIDAVIT***

I, David Stone, mining engineer, of #611 – 675 West Hastings Street, in the City of Vancouver, in the Province of British Columbia, **make oath and say as follows:**

1. I am a director of the plaintiff, Boss Power Corp., and as such have personal knowledge of the matters and facts set out herein, except where stated to be made on information and belief in which case I verily believe them to be true.
2. Now shown to me and marked Exhibits “A” and “B” to this my affidavit is the Notice of Civil Claim herein, together with the Response to Civil Claim delivered by the defendant.
3. In the Notice of Civil Claim it is alleged at paragraph 9 that

Other than an economic deposit of uranium ore there are no other mineral deposits of any economic value within the Blizzard Claims.

From my review of the Report of Drilling Results on the property and the feasibility study undertaken by Kilborn Engineering on the property it is correct to say that other than economic deposits of uranium ore there are no other mineral deposits of any economic value within the Blizzard Claims.

4. At paragraph 11 of the Notice of Civil Claim it is alleged

On April 21, 2008 Boss Power submitted a completed and compliant Notice of Work and Reclamation Program ("NOW") for the Blizzard Claims with the office of the MEMPR office in Cranbrook. The defendant had a statutory duty to assess and process the NOW in a timely fashion.

Now shown to me and marked Exhibit "C" to this my affidavit is a copy of the Notice of Work referred to in that paragraph, together with a courier deliver receipt proving delivery of the Notice of Work to the MEMPR office in Cranbrook.

5. At paragraph 16 of the Notice of Claim it is alleged that

On May 8, 2008 representatives of the plaintiff, Boss Power, met with the Minister of State for Mining, the Deputy Minister for Mining and the Chief Gold Commissioner. At the meeting the Minister of State for Mining confirmed that the ban on uranium mining is not based on any science or any other evidence that uranium exploration or mining is adverse to health or the environment, stating that

British Columbia was a unique province with unique politics and unique people.

and that

The government has based the ban on the opinions and voices of a minority of people most of whom live at Big White or in the Kettle River and Okanagan Valleys who are opposed to uranium mining.

The Minister emphasized that it came down to a social license to operate—the people do not want uranium mining and hence the government has to make sure it does not happen.

I was present at that meeting and prepared a memorandum setting out what was discussed at the meeting, a copy of which is now shown to me and marked Exhibit "D" to this my affidavit. The contents of this memorandum are a true and accurate representation of what was said at the meeting.

6. In the Response to Civil Claim at paragraphs 5.c and d it is alleged that

- 5.c On or about May 8, 2008, representatives of the plaintiffs met with Kevin Krueger, then the defendant's Minister of State for Mining, Greg Reimer, then the defendant's Deputy Minister of MEMPR, and Patrick O'Rourke, then an Assistant Deputy Minister of MEMPR.
- 5.d. At the meeting, Minister Krueger informed the plaintiffs' representatives that:
- i. the Chief Inspector of Mines would not consider the Notice of Work because the defendant intended to ban uranium mining in British Columbia.
  - ii. instead of considering the Notice of Work in the ordinary course, the defendant would enter into compensation negotiations with the plaintiffs.

The plaintiffs' representatives indicated, by words or gestures, their acquiescence in the course of action which Minister Krueger described.

I have no recollection of Minister Krueger informing us of the matters described in subparagraphs i and ii, and neither I nor any of the other persons attending on behalf of the plaintiffs at that meeting agreed with or acquiesced in the course of action as it is described. In fact, contrary to that allegation, as will be set out below the plaintiffs pursued and pressed for a decision on the NOW application following the May 8, 2008 meeting.

7. At paragraph 17 of the Notice of Civil Claim it is alleged that

On May 27, 2008 the plaintiff, Boss Power, through counsel, wrote to the Assistant Deputy Minister, Mining and Minerals Division, specifically asking for the Province's position as to what statutory or regulatory authorities exist in support to the position announced on April 24, 2008.

Now shown to me and marked Exhibit "E" to this my affidavit is a copy of a letter dated May 27, 2008 from Nathanson, Schachter & Thompson LLP written on behalf of Boss Power to the Assistant Deputy Minister Mining and Minerals Division.

8. At paragraph 18 of the Notice of Civil Claim it is alleged that

By undated letter received June 17, 2008 the Acting Assistant Deputy Minister for the Mining and Minerals Division of MEMPR responded that that Ministry would be reviewing the letter referred to in the immediately preceding paragraph and would "respond to you in due course". No response has been forthcoming.

Now shown to me and marked Exhibit "F" to this my affidavit is a copy of a letter from the Acting Deputy Minister for the Mining and Minerals Division of MEMPR responding to Exhibit "F" and bearing a received stamp of June 17, 2008. Although Exhibit "F" states that the writer "would respond to you in due course" no further response has been provided.

9. At paragraph 19 of the Notice of Civil Claim it is alleged that

On July 22, 2008 the plaintiff, Boss Power, inquired directly of the MEMPR concerning the outstanding Notice of Work referred to in paragraph 2 above, stating,

There appears to be some confusion in the industry, and in Victoria, as to whether BC Reg. 82/2008 filed on April 24, 2008 covers only newly registered claims for uranium and thorium but does not cover legacy claims such as ours. We have spoken with several people in the Gold Commissioner's office, and we cannot get a clear interpretation of the new regulations. We would appreciate any feedback you can provide.

The communication remains outstanding and unanswered by the MEMPR.

Now shown to me and marked Exhibit "G" to this my affidavit is a copy of an email I sent to Ricci Berdusco of the MEMPR on that date. I have not had any response to that email.

10. At paragraph 20 of the Notice of Civil Claim it is alleged that

On August 12, 2008 the plaintiff, Boss Power, again wrote to the MEMPR in relation to its outstanding Notice of Work stating,

We have called and emailed on numerous occasions seeking a response to our NoW. The last time I called I was told the NoW was not received by your office and that no one had acted on it. However, even Minister of State, Kevin Kruger, acknowledged that your office had received it.

We urgently request that your office respond to our NoW. We have complied with all the necessary statutes in submitting our application

and are owed a response. Please follow up on this at your earliest convenience.

Now shown to me and marked Exhibit "H" to this my affidavit is a copy of a fax letter I sent to Ricci Berdusco on August 12, 2009. I have received no response to that inquiry.

11. At paragraph 21 of the Notice of Civil Claim it is alleged that

The defendant has not assessed the NOW, has denied its existence and has directed its officers not to respond to enquiries in order to effect the expropriation of the plaintiffs' interests in the Mineral Claims.

On or about July 27, 2010 I telephoned the Cranbrook office of MEMPR and inquired about the status of our NOW and was advised initially that the NOW had never been received and then in a later conversation that if it had been received it had been lost. Now shown to me and marked Exhibit "I" to this my affidavit is a copy of an email dated July 25, 2010 sent to Randy Rogers and Greg McKillop, the consultant who prepared the NOW) reporting on the initial discussion.

12. At paragraphs 23 and 24 of the Notice of Civil Claim it is alleged that:

23. At the time of the events described in paragraphs 11 through 21 a provincial election was pending to take place on May 12, 2009 and the conduct of the defendant as particularized in these paragraphs was directed at assisting the re-election of its members in the ridings where a vocal minority of constituents were vigorously opposing any development for mining of uranium on the plaintiffs' property and not for any genuine policy reasons.

24. By the conduct as particularized herein, the defendant prohibited the plaintiffs from enjoying their rights to exploit the Blizzard Claims for the purposes of exploiting the uranium therefrom.

13. Now shown to me and marked Exhibit "J" to this my affidavit is an email dated March 19, 2008 from Randy Rogers of Boss Power to Eric Partridge, the Assistant Deputy Minister of MEMPR, concerning our intention of completing the work well before the May 12, 2009 provincial election. Without approval of the NOW the plaintiffs could not enjoy their rights to exploit the Blizzard claims for the purposes of exploiting the uranium deposits. The Notice of Work describes work which was to be undertaken in calendar 2008 at an approximate cost of \$4 million to the plaintiffs for the purposes of validating

an earlier feasibility study performed by Kilborn Engineering and providing additional geological information to satisfy the current securities regulatory requirements of National Instrument 43-104 so that Boss Power could proceed in late 2008 or early 2009 with an application to the federal government for approval to undertake mining activities on the property and the financing of that work.

14. In pursuing the opportunity of exploiting the uranium deposits on the subject property the plaintiffs have:

- (a) acquired the mineral claims for 52,500,000 shares of Boss Power Corp. at a per share value of \$0.75 for a total consideration of \$39,375,000;
- (b) incurred expenses directly related to the pursuit of the development of this property in the total amount of \$799,032.11 as particularized on, and on or about the dates set out in the spreadsheet now shown to me and marked Exhibit "K" to this my affidavit; and
- (c) incurred the cost of approximately \$18,290.86 in the preparation of the NOW.

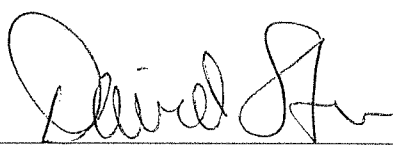
SWORN BEFORE ME at the City of Vancouver, in the Province of British Columbia, this 20<sup>th</sup> day of October, 2010.



A Commissioner for taking Affidavits for British Columbia.

Murray Clemes  
Print name:

Nathanson, Schachter & Thompson LLP  
#750 - 900 Howe Street  
Vancouver, BC V6Z 2M4  
Tel.: 604 662 8840 Fax: 604 684 1598

  
David Stone

SUPREME COURT  
OF BRITISH COLUMBIA  
VANCOUVER REGISTRY

SEP 12 2011



+the order, entered Sept 8, 2011

Further amended pursuant to ~~Rule 6-1(b)(ii)~~  
Amended Notice of Civil Claim filed March 24, 2011  
Notice of Civil Claim filed August 30, 2010  
Amended Statement of Claim filed March 29, 2010  
Original Statement of Claim filed October 16, 2008

No. **S087266**  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

BOSS POWER CORP. and BLIZZARD URANIUM CORP.

Plaintiffs

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE  
OF BRITISH COLUMBIA

Defendant

**SECOND AMENDED NOTICE OF CIVIL CLAIM**

**This action has been started by the plaintiffs for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

#63  
CF

### **Time for response to civil claim**

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

## **CLAIM OF THE PLAINTIFFS**

### **Part 1: STATEMENT OF FACTS**

1. The plaintiff, Boss Power Corp. ("Boss Power"), is a British Columbia company with a place of business at 611- 675 West Hastings Street, Vancouver, British Columbia, V6B 1N2.
2. The plaintiff, Blizzard Uranium Corp. ("Blizzard"), is a wholly owned subsidiary of Boss Power and is a British Columbia company with a place of business at 611- 675 West Hastings Street, Vancouver, British Columbia, V6B 1N2.
3. A defendant is Her Majesty the Queen in Right of the Province of British Columbia (the "Province"). For the purposes of this proceeding the Province has an address the 7th Floor – 1675 Douglas Street, Victoria, British Columbia, V8W 9N3.
4. The Ministry of Energy, Mines and Petroleum Resources ("MEMPR") was at all material times represented by the Minister of State, Kevin Krueger. For the



purposes of this proceeding MEMPR has an address at the 7th Floor – 1675 Douglas Street, Victoria, British Columbia V8W 9N3.

5. The conduct alleged herein concerning the Province and MEMPR was collective and in concert one with the other and was directed at the plaintiffs in concert.
6. At material times the plaintiffs were the holders of free miner certificates as defined in the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292.
7. Mineral claims, located in British Columbia ,commonly known as the Blizzard Claims, bearing Mineral Tenure Record Numbers 512410, 516063, 415836, 512166, 514145, 512167, 516867, 513224, 516835, 513226, 513234, 415504, 415509, 414415, 414416, 414466, 414467, 515979, 516882, 514144, 514148, 514938, 514146, 504391, 508805, 503121, 502074, 531779, 531780, were recorded in the Mineral Titles Online Registry pursuant to the *Mineral Tenure Act* in the name of Blizzard (collectively the “Blizzard Claims”).
8. Blizzard holds the Blizzard Claims as agent, and in trust, for Boss Power.
9. Other than an economic deposit of uranium ore there are no other mineral deposits of any economic value within the Blizzard Claims.
10. The plaintiffs were entitled to all those rights and benefits conveyed by the *Mineral Tenure Act* and its predecessor legislation regarding minerals, including all of the minerals situated vertically downward from and inside the boundaries of those claims, and the right to use, enter and occupy the surface of those claims for mining purposes.
11. On April 21, 2008 Boss Power submitted a completed and compliant Notice of Work and Reclamation Program (“NOW”) for the Blizzard Claims with the office of the MEMPR office in Cranbrook. The defendant had a statutory duty to assess and process the NOW in a timely fashion.

12. Prior to April 24, 2008 work was done and recorded on and to the credit of the Blizzard Claims and/or cash was paid in lieu of work to keep the Blizzard Claims in good standing.
13. As at April 24, 2008 the Blizzard Claims were in good standing.
14. On April 24, 2008 the Chief Gold Commissioner established a Mineral Reserve by a regulation (B.C. Reg. 82/2008) pursuant to s. 22 of the *Mineral Tenure Act* in the following material terms:

### **URANIUM AND THORIUM RESERVE REGULATION**

#### **Definitions**

**1** In this regulation:

“**Act**” means the *Mineral Tenure Act*;

“**reserve**” means the land described in section 2(1).

#### **Uranium and thorium reserve**

- 2** (1) A mineral reserve is established for uranium and thorium over all mineral lands, including, without limitation, land in respect of which minerals or placer minerals or the right to explore for, develop or produce minerals or placer minerals become vested in or reserved to the government after the date this regulation comes into force.
- (2) Subject to the limitation in subsections (3) and (4) or another limitation or prohibition imposed under the Act in relation to the same mineral lands and in accordance with the Act
  - (a) a free miner may register a claim in the reserve, and
  - (b) a lease may be registered in the reserve.
- (3) A claim registered in the reserve on or after the date this regulation comes into force does not entitle a free miner to uranium or thorium in respect of that claim.

15. On April 24, 2008 the defendant issued a news release in which the Minister of State for Mining announced the establishment of a “no registration reserve under the Mineral Tenure Act for uranium and thorium” stating in material part:

By confirming our position on these radioactive minerals we are providing certainty and clarity to the mining industry... The "no registration reserve" will ensure any future claims do not include the rights to uranium. Government will also ensure that all uranium deposits will remain undeveloped. These changes support the BC Energy Plan commitment of no nuclear power.

16. On May 8, 2008 representatives of the plaintiff, Boss Power, met with the Minister of State for Mining, the Deputy Minister for Mining and the Chief Gold Commissioner. At the meeting the Minister of State for Mining confirmed that the ban on uranium mining is not based on any science or any other evidence that uranium exploration or mining is adverse to health or the environment, stating that

British Columbia was a unique province with unique politics and unique people.

and that

The government has based the ban on the opinions and voices of a minority of people most of whom live at Big White or in the Kettle River and Okanagan Valleys who are opposed to uranium mining.

The Minister emphasized that it came down to a social license to operate—the people do not want uranium mining and hence the government has to make sure it does not happen.

17. On May 27, 2008 the plaintiff, Boss Power, through counsel, wrote to the Assistant Deputy Minister, Mining and Minerals Division, specifically asking for the Province's position as to what statutory or regulatory authorities exist in support to the position announced on April 24, 2008.
18. By undated letter received June 17, 2008 the Acting Assistant Deputy Minister for the Mining and Minerals Division of MEMPR responded that that Ministry would be reviewing the letter referred to in the immediately preceding paragraph and would "respond to you in due course". No response has been forthcoming.

19. On July 22, 2008 the plaintiff, Boss Power, inquired directly of the MEMPR concerning the outstanding Notice of Work referred to in paragraph 2 above, stating,

There appears to be some confusion in the industry, and in Victoria, as to whether BC Reg. 82/2008 filed on April 24, 2008 covers only newly registered claims for uranium and thorium but does not cover legacy claims such as ours. We have spoken with several people in the Gold Commissioner's office, and we cannot get a clear interpretation of the new regulations. We would appreciate any feedback you can provide.

The communication remains outstanding and unanswered by the MEMPR.

20. On August 12, 2008 the plaintiff, Boss Power, again wrote to the MEMPR in relation to its outstanding Notice of Work stating,

We have called and emailed on numerous occasions seeking a response to our NoW. The last time I called I was told the NoW was not received by your office and that no one had acted on it. However, even Minister of State, Kevin Kruger, acknowledged that your office had received it.

We urgently request that your office respond to our NoW. We have complied with all the necessary statutes in submitting our application and are owed a response. Please follow up on this at your earliest convenience.

21. The defendant has not assessed the NOW, has denied its existence and has directed its officers not to respond to enquiries in order to effect the expropriation of the plaintiffs' interests in the Mineral Claims.
22. By its conduct as particularized above the defendant, through its agents and officers in the MEMPR, including Minister of State Krueger, by statements to the plaintiff and its refusal to respond to the plaintiff's Notice of Work or to respond to the reasonable inquiries of the plaintiffs, asserted a position that the plaintiffs' right, title and interest in the uranium and thorium deposits in the Blizzard claims could no longer be exploited by the plaintiffs under those claims and as a result they had been expropriated by the Province.

23. At the time of the events described in paragraphs 11 through 21 a provincial election was pending to take place on May 12, 2009 and the conduct of the defendant as particularized in these paragraphs was directed at assisting the re-election of its members in the ridings where a vocal minority of constituents were vigorously opposing any development for mining of uranium on the plaintiffs' property and not for any genuine policy reasons.
24. By the conduct as particularized herein, the defendant prohibited the plaintiffs from enjoying their rights to exploit the Blizzard Claims for the purposes of exploiting the uranium therefrom.
25. On March 12, 2009 the Lieutenant Governor In Council ordered that

The Chief Inspector under the *Mines Act* must not

- (a) issue a permit under section 10 of the *Mines Act* in relation to exploration for uranium or thorium, or
- (b) exempt any person under section (2) of the *Mines Act* from the requirement to obtain a permit under section 10 of that Act in relation to the exploration for uranium or thorium.

25A. By way of affidavit sworn December 30, 2010 Kevin Dickenson, the defendant's Regional Executive Director for the Thompson-Okanagan Region of the Ministry of Natural Resource Operations testified that an application by the plaintiffs for road access to their mineral claims would be referred to his office for decision and that

In light of the government's announced opposition to uranium mining, as indicated by [the Regulation, the news release describe in paragraph 15 hereof, and the Order-in-Council] we would not have approved an application, after April, 2008, for an easement or similar tenure over Crown land for the purpose of construction of an access road to a proposed uranium mine.

26. As a result of the Uranium and Thorium Reserve Regulation (the "Regulation") the conduct of the defendant as particularized herein and the March 12, 2009 Order of the Lieutenant Governor in Council (the "Order In Council") the plaintiffs are no longer permitted to explore for, develop or

produce uranium and thorium from the Blizzard Claims, or exercise their rights to uranium and thorium minerals under the *Mineral Tenure Act*.

27. As a result of the Regulation, the defendant's conduct, and the Order In Council, the plaintiffs' rights, title and interest in the Blizzard Claims in relation to uranium and thorium minerals were expropriated or otherwise taken or converted to the use of the defendant and the defendant did thereby obtain the benefit of the rights taken from the plaintiffs by virtue of the Regulation and the Order In Council.
28. In the alternative, the defendant obtained the benefit of advancing its agenda and policy of preventing the exploration and development of the plaintiffs' uranium deposits in the Blizzard Claims.
29. In the further alternative, the defendant's statement as set out in the news release and its conduct as particularized herein amounts to a refusal by the defendant to allow the plaintiffs to exercise and exploit their rights with respect to their mineral claims and as such constitutes an expropriation.
30. By virtue of the defendant's expropriation of the plaintiffs' interests in the Blizzard Claims, the defendant is obliged to compensate the plaintiffs for such expropriation.
31. The acts of MEMPR as alleged herein were deliberate, with the knowledge that there were inconsistent with its statutory obligations and with the knowledge of or reckless indifference to the fact that its conduct would injure the plaintiffs.
32. The defendant's expropriation and misfeasance of public office has caused the plaintiffs loss, damage and expense, including the loss of opportunity to develop and exploit the Blizzard Claims, and to recover expenditures already made on the Blizzard Claims.
33. The plaintiffs have suffered damages as a result of the defendant's unlawful action.

34. On December 20, 2010 the defendant unconditionally admitted the following facts:

- a) On April 21, 2008, the plaintiffs submitted a notice of work ("the NOW") for consideration by the Chief Inspector of Mines of British Columbia pursuant to section 10 of the *Mines Act*, RSBC 1996, c. 293. A copy of the NOW is Exhibit "1" on the examination for discovery of David Stone.
- b) At all times between January 1, 2008 and March 31, 2009, the Chief Inspector of Mines was Douglas Sweeney.
- c) At all times between April 1, 2008 and June 7, 2010, Greg Reimer was employed by the defendant as deputy minister of the defendant's Ministry of Energy, Mines & Petroleum Resources ("EMPR").
- d) At all material times after July 10, 2008, John Cavanagh was employed by the defendant as an assistant deputy minister in EMPR.
- e) Each of the actions described below were taken by Reimer and Cavanagh in the course of their duties as employees of the defendant. To the extent that any of them constitutes an actionable wrong, the defendant is vicariously liable for the actions of Reimer and Cavanagh.
- f) In July, 2008, Reimer instructed Cavanagh to instruct Sweeney that Sweeney was not to consider the NOW and that approval for that work was not to be granted.
- g) After receipt of that instruction, Cavanagh sought and received legal advice from the defendant's Ministry of the Attorney General. He was advised that Sweeney had a statutory obligation to consider the NOW on its merits, and that a failure so to do would be a breach of Sweeney's statutory duty.
- h) After receipt of that advice, Cavanagh instructed Sweeney that Sweeney was not to consider the NOW and that approval for that work was not to be granted.
- i) Cavanagh then relieved Sweeney of responsibility for the NOW, and passed that responsibility to other employees of EMPR, who gave no consideration to the merits of the NOW.

Throughout these proceedings, the Defendant has continually asserted that if the plaintiffs sought provincial permission to use existing logging roads or construct new mine access roads the Province would "exercise its discretion" to refuse permission or refuse any application by the plaintiffs to gain access to the mineral claims for the purposes of exploiting those claims. The taking of this position is in furtherance of the defendant's admitted misfeasance of public office and is unlawful.

**Part 2: RELIEF SOUGHT**

1. a declaration that the defendant has expropriated the plaintiffs' interest in the Blizzard claims;
2. damages for misfeasance of public office, including exemplary and punitive damages;
3. compensation for the expropriation, including
4. damages for loss of value of the interests taken;
5. damages for disturbance of the plaintiffs' business in relation to the expropriated claims;
6. damages for expenses incurred in relation to the Blizzard Claims and thrown away as the result of the expropriation;
7. interest or, alternatively, Court Order Interest;
8. special costs or, alternatively, costs; and
9. such further and other relief this Honourable Court deems just.

**Part 3: LEGAL BASIS**

1. The plaintiffs are entitled to a declaration that the defendant has expropriated the plaintiffs' interest in the Blizzard Claims on the basis of a *defacto* expropriation.

*Manitoba Fisheries Ltd. v. The Queen* (1978) 88 D.L.R. (3rd) (S.C.C.)



*R in the Right of British Columbia v. Tener* [1985] 3 W.W.R. 673 (S.C.C.)

*Alberta v. Nilsson* 1999 A.B.Q. 440.

2. The plaintiffs are entitled to compensation for the expropriation for the expropriation as claimed.

*Manitoba Fisheries Ltd. v. The Queen* (1978) 88 D.L.R. (3rd) (S.C.C.)

*R in the Right of British Columbia v. Tener* [1985] 3 W.W.R. 673 (S.C.C.)

*Alberta v. Nilsson* 1999 A.B.Q. 440

*Adroit Resources Inc. v. HMTQ (British Columbia)* 2010 BCCA 334.

3. The defendant's conduct particularized above constitutes a misfeasance of public office giving rise to liability for damages to be measured by the value of the mineral claims.

*Hodhavji Estate v. Woodhouse* 2003 SCC 69

*Three Rivers District Council v. Bank of England (No. 3)* [2002] 2 W.L.R. 1220 (H.L.)

*Alberta v. Nilsson, supra*

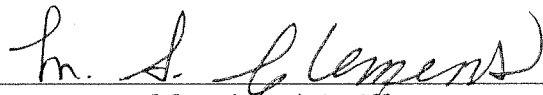
*Roncarelli v. Duplessis* (1959) 16 D.L.R. (2nd) 689

Plaintiffs' address for service: Nathanson, Schachter & Thompson LLP  
750 - 900 Howe Street  
Vancouver, BC V6Z 2M4  
**Attention: Murray A. Clemens, QC**

Fax number address for service (if any): 604 684 1598

E-mail address for service (if any): mclemens@nst.bc.ca

Date: 6 September 2011

  
\_\_\_\_\_  
Signature of for the plaintiffs,  
Murray A. Clemens, QC

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

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## Appendix

### Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

### Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

### Part 3: THIS CLAIM INVOLVES:

*[Check all boxes below that apply to this case]*

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:** *[If an enactment is being relied on, specify. Do not list more than 3 enactments.]*

1. Mineral Tenure Act, [RSBC 1996] c. 292 and its predecessor legislation
2. *Mines Act*, [RSBC 1996] c. 293