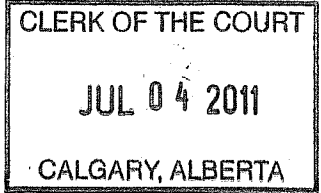


Form 10
[Rule 3.25]



Clerk's stamp:

COURT FILE NUMBER 1101 - 09218

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFFS THE ALEXANDER INDIAN BAND and CHIEF ALLAN PAUL and COUNCILLORS MARTIN ARCAND, SHELDON ARCAND, KURT BURNSTICK, NORMAN KOOTENAY, and BERNARD PAUL, BEING MEMBERS OF THE ALEXANDER INDIAN BAND, suing on behalf of all the other members of the ALEXANDER FIRST NATION, who are also all members of the ALEXANDER INDIAN BAND

DEFENDANTS HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA and THE ATTORNEY GENERAL OF CANADA

DOCUMENT STATEMENT OF CLAIM

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Rae and Company
Suite 900, 1000 – 5th Avenue SW
Calgary, AB, T2P 4V1
T: 403.264.8389
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Attention: W. Tibor Osvath
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NOTICE TO DEFENDANTS

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

1. The individual Plaintiff, Chief Allan Paul is the duly elected Chief of the Alexander First Nation, and the individual Plaintiffs Councillors Martin Arcand,

Sheldon Arcand, Kurt Burnstick, Norman Kootenay, and Bernard Paul, are the duly elected Councillors of the Alexander First Nation and are collectively the Chief and Council of the Alexander Indian Band, also known as the Alexander First Nation.

2. The members of the Alexander Indian Band constitute the membership of the Alexander First Nation.
3. Individual Plaintiffs act herein on their own behalf, on behalf of the Alexander Indian Band and on behalf of the Alexander First Nation. Individual Plaintiffs also act as the representatives of the Alexander First Nation and of all the other citizens and members of the Alexander First Nation, all of which members are Plaintiffs who have the same interest in these proceedings.
4. The Chief and Councillors of the Alexander First Nation are the proper representatives of the Alexander First Nation and have the authority to bring this legal action.
5. The members of the Alexander First Nation are all “Indians” within the meaning of section 91(24) of the *Constitution Act, 1867*, the *Rupert's Land and North-Western Territory Order (1870)*, the *Constitution Act, 1930*, and the *Constitution Act, 1982*, and are Treaty Indians under *Treaty No. 6* of 1876, and “Aboriginal Peoples” within the meaning of the *Constitution Act, 1982*, and notably section 35 thereof.
6. Alexander First Nation is a nation or tribe within the meaning of the *Royal Proclamation of 1763*, a tribe or band within the meaning of *Treaty No. 6*, and an organized society, a collectivity, an Aboriginal People within the meaning of the *Constitution Act, 1982* and a band within the meaning of the *Indian Act*, R.S.C. 1985, c I-5, as amended.
7. Furthermore, as a nation under international law and as an Indigenous People, Alexander First Nation is legally entitled to protection from having its traditional lands, Aboriginal Title, Aboriginal Rights or any of its other rights unilaterally confiscated, extinguished, appropriated or dealt with by Canadian law without its consent.
8. Since time immemorial or at least since prior to the assertion of Crown sovereignty over or any colonization of what is now Alberta, Alexander First Nation has occupied, used and possessed the traditional lands described in paragraph 9 hereof, and functioned as a distinctive Aboriginal People and society with its own social organization, culture and particular language, institutions, laws, practices, customs, traditions and economies.
9. All individual Plaintiffs are direct descendants of the Alexander First Nation who had and transmitted to Plaintiffs Aboriginal Title and Aboriginal Rights in and to

their traditional lands consisting of a large part of the lands, including the inland waters and the banks and beds of inland waters within what are now the Provinces of Alberta and Saskatchewan.

10. The part of the traditional lands of Plaintiffs in Alberta (herein the “Traditional Lands”) comprises the areas described as follows:
 - a. An area bounded on the west by the Rocky Mountain divide, on the south by the south bank of the Red Deer River, on the east by the Alberta-Saskatchewan border and to the north by approximately 57° latitude North and including all of the natural resources thereof;
 - b. The Traditional Lands include national and provincial parks; and
 - c. The Traditional Lands do not include Indian Reserves and the natural resources thereof set aside for other Indian nations and Aboriginal Peoples.
11. In this Statement of Claim, “Natural Resources” means all natural resources including living and inanimate things, and for greater certainty includes the forests and timber, surface and sub-surface waters including groundwater, and the mines and minerals including petroleum and gas, in and throughout the Traditional Lands.
12. Since prior to the assertion of Crown sovereignty over the Traditional Lands, Alexander First Nation have continuously used and occupied the Traditional Lands, either exclusively or on a joint or shared basis with other Aboriginal Peoples.
13. Since prior to European contact and prior to the assertion of Crown sovereignty, Alexander First Nation continuously had and exercised in the Traditional Lands activities, practices, traditions and customs which are integral to their distinctive culture and which are a central and significant part thereof. These activities, practices, traditions and customs have significantly related to the Traditional Lands including the Natural Resources.
14. In 1876, the Alexander First Nation and other nations and tribes of Indians entered into *Treaty No. 6* in its oral and written forms with Her Majesty the Queen of Great Britain and Ireland. *Treaty No. 6* was preceded by negotiations during which representations, commitments and promises were made to the Alexander First Nation by representatives of Her Majesty, and these form part of the oral terms of *Treaty No. 6*.
15. *Treaty No. 6* recognized and affirmed certain Aboriginal rights of Alexander First Nation and conferred particular additional rights on Alexander First Nation, all of which rights are treaty rights (herein “Treaty Rights”).

16. *Treaty No. 6* contemplated a sharing of the surface of the Traditional Lands and did not diminish or impair Aboriginal Title with respect to the Natural Resources or continuing Aboriginal Rights with respect to the Traditional Lands. This was also the intention and understanding of the Parties to *Treaty No. 6*.
17. The Alexander First Nation retain all of their Aboriginal Rights not specifically modified by *Treaty No. 6*. More specifically, they retain their Aboriginal Title and Aboriginal Rights to the Traditional Lands encompassing as well the Natural Resources, including the part of their Traditional Lands contemplated by *Treaty No. 6*. Alternatively, they retain at least their Aboriginal Title to the Natural Resources and Aboriginal Rights of various kinds in the Traditional Lands. In addition, Alexander First Nation retain their inherent rights of self-government, law-making authority, and exemption from taxation by other governments, including the government of Her Majesty the Queen in Right of Canada and of Her Majesty the Queen in Right of Alberta.
18. The inherent rights of Alexander First Nation, which include Aboriginal Title and Aboriginal Rights as described herein, are also recognized and affirmed both in *Treaty No. 6* and in section 35 of the *Constitution Act, 1982*.
19. Without prejudice to its other Aboriginal and Treaty Rights, the Alexander First Nation have Aboriginal and Treaty Rights to the lands including its Natural Resources in and to all Alexander First Nation Reserves, particularly:

Indian Reserves No. 134;
Indian Reserve 134A; and
Indian Reserve 134B.
20. The Aboriginal Rights, including Aboriginal Title, of the Alexander First Nation claimed herein include the exclusive or shared Aboriginal use, enjoyment, benefit and beneficial ownership of the Natural Resources as well as the right to the non-exclusive use and benefit of the surface of Traditional Lands.
21. The Aboriginal Title and Aboriginal and Treaty Rights of the Alexander First Nation in the Traditional Lands including the Natural Resources are an interest other than that of the Crown within the meaning of s.109 of the *Constitution Act, 1867*, and are a trust and an arrangement within the meaning of the *Constitution Act, 1930* and the *Alberta Natural Resources Transfer Agreement*.
22. The Traditional Lands including the Natural Resources are lands reserved for the Indians within the meaning of the *Royal Proclamation of 1763* and section 91(24) of the *Constitution Act, 1867*.
23. At all relevant times, a trust or fiduciary relationship existed between the Alexander First Nation, as beneficiaries, and Defendant the Attorney General of

Canada, as trustee or fiduciary, with respect to, *inter alia*, the Traditional Lands including the Natural Resources.

24. At all relevant times, Defendant the Attorney General of Canada has been under trust, fiduciary and equitable obligations and duties to the Alexander First Nation with respect to the Traditional Lands including the Natural Resources, which include but are not limited to:
 - a. the duty to preserve and protect the Aboriginal Title, Aboriginal Rights and Treaty Rights of Alexander First Nation in the Traditional Lands including the Natural Resources;
 - b. the duty to secure the Traditional Lands including the Natural Resources from interference by third parties, including servants and agents of Her Majesty the Queen in Right of Alberta;
 - c. the duty to obtain the full consent of the Alexander First Nation prior to authorizing or permitting any works on or exploitation of Natural Resources in the Traditional Lands;
 - d. the duty, at a minimum, to consult in good faith and with the intention of substantially addressing the concerns of the Alexander First Nation and of involving the Alexander First Nation in decisions taken with respect to the Traditional Lands and Natural Resources and the duty to accommodate Alexander First Nation Aboriginal and Treaty Rights in and to the Traditional Lands and including the Natural Resources.
25. At all relevant times, Defendant the Attorney General of Canada has owed an equitable obligation to Alexander First Nation in connection with their Aboriginal Title, Aboriginal Rights and other rights and interests and has been the guardian of these rights and interests, and charged with the preservation and protection thereof.
26. At all relevant times, Defendant the Attorney General of Canada has been obliged to adhere to the strict standard of conduct incumbent on trustees or fiduciaries when dealing in any manner or being involved with the Traditional Lands and the Natural Resources and with the title, rights and interests of the Alexander First Nation therein.
27. Defendant Her Majesty the Queen in Right of Alberta is aware of the Aboriginal Title and the Aboriginal and Treaty Rights of the Alexander First Nation in their Traditional Lands and Natural Resources.
28. At all relevant times, Defendant Her Majesty the Queen in Right of Alberta has been aware of the trust or fiduciary relationship that exists between the Alexander First Nation and Defendant the Attorney General of Canada, and of the trust,

fiduciary and equitable obligations of the Attorney General of Canada respecting the Traditional Lands and the Natural Resources, as described in paragraphs 23-26.

29. Defendant the Attorney General of Canada at all relevant times has breached Her trust, fiduciary and equitable obligations to Alexander First Nation respecting the Aboriginal Title, Aboriginal Rights and other rights and interests of the Alexander First Nation and respecting the Traditional Lands including the Natural Resources.
30. Defendant the Attorney General of Canada has specifically breached Her trust, fiduciary and equitable obligations:
 - a. by failing to protect Alexander First Nation interests in the Traditional Lands including the Natural Resources pursuant to their Aboriginal Title and Aboriginal and Treaty Rights and other rights and interests;
 - b. by purportedly granting authorizations, permits, leases and licences pursuant to which works have been carried out, and Natural Resources extracted and disposed of, including in the national parks; and
 - c. by failing to protect Alexander First Nation rights, title and interests in the face of the activities described in paragraphs 34-36 and the authorization of those activities by Her Majesty the Queen in Right of Alberta as described herein.
31. Alexander First Nation at all relevant times have been peculiarly vulnerable to or at the mercy of Defendant the Attorney General of Canada and Alexander First Nation at all relevant times have been unable to exercise or enforce their Aboriginal Title, Aboriginal Rights and Treaty Rights, to a large measure because of the matters pleaded in this Statement of Claim.
32. As a consequence of the breaches by Defendant the Attorney General of Canada of Her treaty, trust, fiduciary and equitable obligations to Alexander First Nation with regard to the matters pleaded herein, the exercise of Alexander First Nation Aboriginal and Treaty Rights was extensively compromised and Alexander First Nation have been deprived of substantial revenues from the Traditional Lands including the Natural Resources and have suffered severe losses and damages. These losses and damages, respecting which particulars will be provided and proven at trial, exceed the amount of \$1 billion.
33. While the Alexander First Nation were unlawfully deprived of substantial revenues from their Traditional Lands and Natural Resources, Defendant the Attorney General of Canada received a corresponding enrichment in the form of royalties, payments and fiscal revenues from the appropriation, development and exploitation of the Traditional Lands and Natural Resources.

34. Moreover, Defendant Her Majesty the Queen in Right of Alberta has purportedly authorized and has sanctioned the activities of third parties by purportedly granting various authorizations, permits, leases, licences and contracts, pursuant to which works have been carried out on the Traditional Lands, and Natural Resources extracted from the Traditional Lands by third parties.
35. Pursuant to the purported authorizations, permits, leases, licences and contracts mentioned in paragraph 34, oil and gas has been so extracted or taken from the Traditional Lands and such oil and gas have a value of at least \$1 billion.
36. The said works in the Traditional Lands and the exploitation of Natural Resources have severely interfered with and caused extensive losses and damages to Alexander First Nation and their rights and interests, have unjustifiably infringed upon the Aboriginal and Treaty Rights of Alexander First Nation, constitute an illegal expropriation and appropriation of the Traditional Lands and Natural Resources and breaches by Defendant Her Majesty the Queen in Right of Alberta of the Aboriginal Title, Aboriginal Rights and Treaty Rights of Plaintiffs.
37. As a result of such purported authorizations, permits, leases and contracts of Defendant Her Majesty the Queen in Right of Alberta and of the works carried out, and Natural Resources extracted pursuant thereto, Alexander First Nation have suffered additional losses in excess of \$1 billion.
38. Alexander First Nation have received no benefit, no revenues, no compensation nor monies of any kind from the development, exploitation, extraction, marketing or sale of the Natural Resources exploited in or taken from the portions of the Traditional Lands outside their Reserves and Alexander First Nation have not consented to the extraction and use of any Natural Resources by Defendant Her Majesty the Queen in Right of Alberta or those purportedly acting under Her authority in regard to the Traditional Lands and Natural Resources.
39. Defendant Her Majesty the Queen in Right of Alberta has received a corresponding enrichment in the form of royalties, payments and fiscal revenues from the exploitation of the Traditional Lands including the Natural Resources as a consequence of the purported authorization of resource extraction and development activities.
40. At all relevant times, Defendant Her Majesty the Queen in Right of Alberta was a constructive trustee with respect to all activities sanctioned by Her in connection with the Traditional Lands including the Natural Resources.

41. The said purported authorizations, leases, permits, licences and contracts and the granting and exercising of alleged rights thereunder by Defendant Her Majesty the Queen in Right of Alberta are unconstitutional, illegal, null and of no effect or alternatively are subject to the Aboriginal Title, Aboriginal Rights and Treaty Rights of Alexander First Nation.
42. These infringements, interferences, losses, damages and expropriations and appropriations of the rights and property of Alexander First Nation constitute breaches by Defendant Her Majesty the Queen in Right of Alberta of the Aboriginal Title, Aboriginal and treaty Rights of Alexander First Nation.
43. The Defendants have also also illegally interfered with, unjustifiably infringed and appropriated and curtailed the Aboriginal and Treaty Rights of Alexander First Nation respecting:
 - a. the occupation, use and enjoyment of the Traditional Lands including the Natural Resources; and
 - b. the carrying on by Alexander First Nation of activities, customs, practices and traditions, including spiritual activities and hunting, fishing, trapping, gathering, and economic activities in and respecting the Traditional Lands including the Natural Resources.
44. Moreover, the Defendants have severely interfered with and seriously compromised the way of life of Plaintiffs and their ability to earn a livelihood from the Traditional Lands and Natural Resources and have caused irreparable damage to the Plaintiffs. The Defendants have interfered with the Alexander First Nation's customs, traditions, language, values and culture, as well as with their spiritual links to the Traditional Lands and certain of the Natural Resources and their special relationship with the Traditional Lands and Natural Resources.
45. With respect to Defendant Her Majesty the Queen in Right of Alberta, Alexander First Nation are entitled to the most favourable remedies available to them at law and in equity, and are entitled, *inter alia*, to the following remedies, either cumulatively or in the alternative:
 - a. general and special damages for losses arising as a result of the purported authorizations, permits, leases and contracts of Defendant Her Majesty the Queen in Right of Alberta and works carried out, and Natural Resources extracted, pursuant thereto;
 - b. an accounting for the administration as constructive trustee of the Traditional Lands and the Natural Resources;
 - c. restitutionary or other equitable remedies for the unjust enrichment of Defendant Her Majesty the Queen in Right of Alberta; and

- d. equitable compensation for all other losses.
46. With respect to Defendant the Attorney General of Canada, Alexander First Nation are entitled to the most favourable remedies available to them at law and in equity, and are entitled, *inter alia*, to the following remedies, either cumulatively or in the alternative:
- a. equitable compensation for losses arising as a result of the breach by Defendant the Attorney General of Canada of Her trust, fiduciary and equitable duties to the Alexander First Nation;
 - b. an accounting for the administration as trustee or fiduciary of the Traditional Lands including the Natural Resources, and of any other Aboriginal interests of Alexander First Nation; and
 - c. restitutionary or other equitable remedies for the unjust enrichment of Defendant the Attorney General of Canada;
47. The Alexander First Nation assertion of Aboriginal Rights, Aboriginal Title, and Treaty Rights over their Traditional Lands, including the Natural Resources, is without prejudice to, and exist in conjunction with, the Aboriginal Rights, Aboriginal Title and Treaty Rights of other Indian nations and Aboriginal Peoples respecting certain parts of the Traditional Lands.
48. More particularly, the Alexander First Nation assertion of Aboriginal Rights, Aboriginal Title, and Treaty Rights over their Traditional Lands, including the Natural Resources, does not include Indian Reserves set aside for other Indian nations and Aboriginal Peoples.

Remedy sought:

49. A Declaration that the Alexander First Nation have, and at all relevant times have had, unextinguished Aboriginal Title and existing Aboriginal Rights and Treaty Rights in and to the Traditional Lands including the Natural Resources, and Aboriginal Title to the Traditional Lands;
50. A Declaration that the Aboriginal Title and Rights of the Alexander First Nation are constitutionally protected, take precedence over and condition, and are a burden and encumbrance upon, any right or claim of Defendants in and to the Traditional Lands and Natural Resources;
51. A Declaration that at all relevant times the Alexander First Nation have had and still have the right to the exclusive use, enjoyment and ownership of the Natural

Resources or to the shared use, enjoyment and ownership of the Natural Resources with other Aboriginal nations;

52. In the alternative, a Declaration that at all relevant times the Alexander First Nation have had and still have the right to the shared use, enjoyment and ownership of the Natural Resources in certain parts of the Traditional Lands either on an exclusive basis or together with other Aboriginal nations;
53. In the further alternative, a Declaration that at all relevant times the Alexander First Nation have had and still have the beneficial ownership of the Natural Resources in all or, alternatively, in certain parts of the Traditional Lands;
54. A Declaration that at all relevant times the Defendant Attorney General of Canada has had and still have trust, fiduciary or other equitable obligations to the Alexander First Nation with respect to all rights and interests of Alexander First Nation in and to the Traditional Lands and Natural Resources;
55. A declaration that the Defendants have breached their trust, fiduciary and equitable obligations to Plaintiffs in respect to the rights of Plaintiffs and in respect to the Traditional Lands and Natural Resources;
56. A Declaration that the Defendants have unlawfully issued or caused to be issued various authorizations, permits, leases, licenses, and contracts respecting the Traditional Lands and Natural Resources;
57. An Order quashing any authorizations, permits, leases, licenses, and contracts as are incompatible with the Aboriginal Title or inconsistent with the exercise of the Aboriginal or Treaty Rights of Alexander First Nation;
58. A Declaration that the Alexander First Nation have suffered losses and damages in the total amount of \$2 billion, comprising the amount of \$1 billion as a result of breaches of the Attorney General of Canada and an amount of \$1 billion as a result of breaches of Defendant Her Majesty the Queen in Right of Alberta;
59. An award of damages or equitable compensation from the Defendant Attorney General of Canada in favour of the Alexander First Nation in the amount of \$1 billion;
60. An award of damages or equitable compensation from Defendant Her Majesty the Queen in Right of the Province of Alberta in favour of the Alexander First Nation in the additional amount of \$1 billion;
61. An accounting:
 - a) for the value of all Natural Resources extracted from the Traditional Lands including royalties, payments and fiscal revenues;

b) for all royalties, payments and fiscal revenues received by Defendants that related to the extraction of Natural Resources from the Traditional Lands; and

c) for the value of the unjust enrichment of the Defendants.

62. An Order that the Defendant Attorney General of Canada pay the Alexander First Nation any amount to which they are entitled consequent upon such an accounting;
63. Interlocutory and permanent relief as required to prevent further or new interference with the Aboriginal Title and Rights of Alexander First Nation over the Traditional Lands and Natural Resources;
64. All further and proper declarations, accounts, inquiries, orders and directions to carry out the remedies awarded;
65. Pre-judgment and post-judgment interest according to the *Judgment Interest Act*, as amended;
66. Costs of this action;
67. Such further and other relief as this Honourable Court may deem just.

NOTICE TO THE DEFENDANTS

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.