

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable
Mr. Justice GANS

) MADE This 1st DAY
) OF July, 2020

BETWEEN:

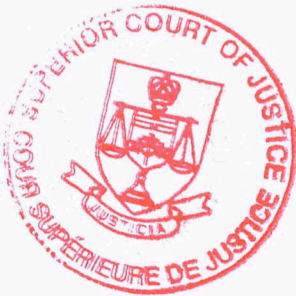
CHIEF GERALD LEWIS and
ISKATEWIZAAGEGAN NO. 39 INDEPENDENT FIRST NATION

Applicants

— and —

THE CITY OF WINNIPEG, and
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Respondents



ORDER

ON REQUEST of all parties in case management for, *inter alia*, direction from the Court on the applicants' qualification as "private parties" referenced in the Order in Council dated October 2, 1913 approved by the Lieutenant Governor in Council for the Province of Ontario and incorporated by reference in the Order of Approval of the International Joint Commission dated January 14, 1914 and ON CONSENT of all parties, THIS COURT ORDERS and declares that:

1. Paragraph numbered 1 of the report of the Honourable Minister of Lands, Projects and Mines, annexed to the Order in Council approved by the Lieutenant Governor for the Province of Ontario dated October 2, 1913, which paragraph reads as follows:

That full compensation be made to the Province of Ontario and also to all private parties whose lands or properties may be taken, injuriously affected, or in any way interfered with, but water taken within the terms hereof and considered merely as water is not property to be paid for.

forms part of and is one of the conditions of the Order of Approval of the International Joint Commission dated January 14, 1914 (hereinafter referred to as the "Order"), which permits the City of Winnipeg to withdraw water from Shoal Lake.

2. The Respondent the City of Winnipeg is bound by the provisions of the Order including paragraph numbered 1 of the report annexed to the 1913 Order in Council recited above.
3. The Applicants would be entitled to full compensation from the City of Winnipeg if it can be shown that the Applicants' properties or lands have been taken, injuriously affected or in any way interfered with pursuant to the Order provided, however, that water taken within the terms of the Order and considered merely as water is not property to be paid for.
4. The balance of the application is dismissed without prejudice to the rights of the Applicants to commence an action for compensation or damages under the terms of the Order or any other relevant statute or cause, and without prejudice to the rights of any defendant to that action to raise any defences whatsoever.
5. Costs of this application are in the cause and may be fixed by this Honourable Court if the parties are unable to agree.

Date:

July 13, 2020


Gans J.

ENTERED IN THE REGISTRY OF THE COURT OF QUEEN'S BENCH
ONTARIO / INSCRIT A TORONTO
LE / DANS LE REGISTRE NO.:

JUL 15 2020

PER / PAR:

CHIEF GERALD LEWIS et al.

-and-

THE CITY OF WINNIPEG et al.

Respondent

Applicants

Court File No. CV-19-006325580000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced in TORONTO

**ORDER
DISPOSING OF APPLICATION**

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