

FEDERAL COURT

B E T W E E N :

LORNA JACKSON-LITTLEWOLFE

Applicant

- and -

WHITEFISH LAKE FIRST NATION #128

Respondents

APPLICANT'S RECORD

**JUSTICE CENTRE FOR
CONSTITUTIONAL FREEDOMS**

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Calgary, ABV T2V 1K2



Counsel for the Applicant

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Edmonton, AB T5J 0K1



Counsel for the Respondent

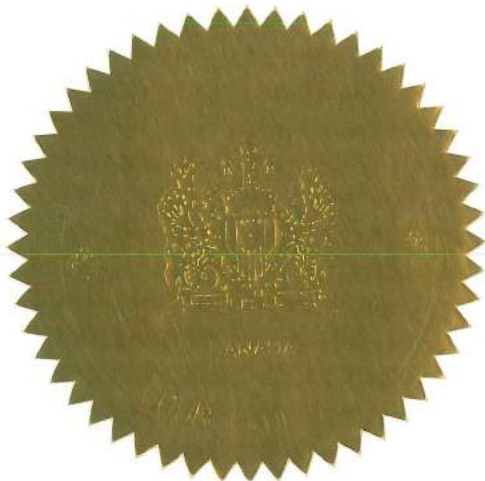
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Court File No.: T-808-21

FEDERAL COURT

LORNA JACKSON-LITTLEWOLFE

Applicant

- and -

WHITEFISH LAKE FIRST NATION #128 and SADDLE LAKE CREE NATION #462

Respondents

APPLICATION UNDER Sections 18(1) and 18.1 of the *Federal Courts Act* and Rule 301 of the *Federal Courts Rules*.

NOTICE OF APPLICATION

TO THE RESPONDENTS: WHITEFISH LAKE FIRST NATION #128 and SADDLE LAKE CREE NATION #462

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Edmonton, Alberta.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules* information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: May 14, 2021**ORIGINAL SIGNED BY
JENNIFER SORVISTO
A SIGNÉ L'ORIGINAL**

Issued by: _____

(Registry Officer)

Address of local office: Scotia Place
10060 Jasper Avenue
Tower 1, Suite 530
Edmonton, Alberta
T5J 3R8

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the

MAY 14 2021

day of _____ A.D. 20 _____

Dated this _____ day of **MAY 14 2021** 20 _____**JENNIFER SORVISTO
REGISTRY OFFICER
AGENT DU GREFFE**

TO: Whitefish Lake First Nation #128
Administration Building
PO Box 271
Goodfish Lake, Alberta
T0A 1R0



AND TO: Saddle Lake Cree Nation #462
PO Box 100
Saddle Lake, Alberta
T0A 3T0



AND TO: The Attorney General of Canada
Prairie Regional Office - Edmonton
10423 101 Street
3rd Floor, Epcor Tower
Edmonton, Alberta
T5H 0E7



APPLICATION

1. This is an Application for Judicial Review pursuant to sections 18(1) and 18.1 of the *Federal Courts Act* regarding a decision of the Respondent, Whitefish Lake First Nation #128 ("WLFN") which deemed that Lorna Jackson-Littlewolfe (the "Applicant") was "not an eligible candidate" for Council and Chief in the Whitefish Lake First Nation 2021 Elections ("2021 Elections") held on April 29, 2021 and May 6, 2021 respectively. This decision to deny the Applicant's candidacy (the "Decision") was made in reliance on section 1(c) of the Saddle Lake Tribal Customs (the "Election Regulations"), which states that "[n]o person living in a Common Law marriage shall be eligible for nomination" (the "Common Law Marriage Prohibition").

2. Pursuant to section 52(1) of the *Constitution Act, 1982*, the Applicant challenges the constitutionality of the Common Law Marriage Prohibition on the basis that it unjustifiably discriminates against her based on marital status, contrary to section 15(1) of the *Charter*.

The Applicant makes this application for:

3. The Applicant seeks the following relief:

- (a) An Order abridging the time for the service of this application, if necessary;
- (b) A Declaration pursuant to section 52(1) of the *Constitution Act, 1982*, that the Common Law Marriage Prohibition unjustifiably discriminates based on marital status contrary to section 15(1) of the *Charter* and is therefore of no force or effect;
- (c) A Declaration pursuant to section 24(1) of the *Charter* that the Decision infringes the Applicant's section 15(1) *Charter* rights;
- (d) An Order in the nature of *mandamus* pursuant to 18(1) of the *Federal Courts Act* and section 24(1) of the *Charter* setting aside the 2021 Elections and directing Whitefish Lake First Nation #128 to immediately hold a new Election

for Council and Chief using the *onihcikiskwapowin* – Tribal Customs Elections Code;

- (e) In the alternative, an Order in the nature of *mandamus* pursuant to section 18(1) of the *Federal Courts Act* and section 24(1) of the *Charter* setting aside the 2021 Elections and directing Whitefish Lake First Nation #128 to forthwith adopt *Charter*-compliant election regulations and immediately hold a new Election for Council and Chief thereafter;
- (f) An Order that this Court retain jurisdiction of this matter until a new election is held in compliance with the law and the judgment rendered by this Court;
- (g) Costs; and
- (h) Such further and other relief as counsel may advise and this Honourable Court deems just and equitable.

THE GROUNDS FOR THIS APPLICATION ARE:

The Parties and Overview

4. The Applicant is a Cree woman, a mother and a grandmother, and a member of WLFN, where she lives with her common law spouse. She is also a keen observer of local and national politics, particularly in relation to matters that affect her community. After being encouraged to run for office by several members of her community, including Elders, the Applicant sought nomination as a candidate in the 2021 Elections for Council and Chief.

5. The Respondent, WLFN, is part of the Saddle Lake Cree Nation #462, which includes both the WLFN and Saddle Lake First Nation #125 ("SLFN"). WLFN and SLFN are recognized as a single band called Saddle Lake Cree Nation #462 pursuant to the *Indian Act*, RSC 1985, c I-5, but they retain separate chiefs and councils. The WLFN territory is located approximately 90 km northeast of St. Paul, Alberta. This Application impacts the election codes and customs of Saddle Lake Cree Nation #462; accordingly they are also named as a Respondent.

4. In 1955 and 1960, band meetings were held on the Saddle Lake Reserve. From these band meetings, the Saddle Lake Tribal Customs ("Election Regulations") were created. These Election Regulations, which included the disputed Common Law Marriage Prohibition, applied to the Saddle Lake Reserve, now known as SLFN, and the Goodfish Lake Reserve, now known as WLFN.

6. In 2017, the Federal Court determined that the Election Regulations were inadequate, largely on the basis of their failure to address issues such as the nomination of an election/appeals committee. The Court required Saddle Lake Cree Nation to develop a new process to determine the eligibility of candidates for election. Subsequently, Saddle Lake Cree Nation created and adopted the *onihcikiskwapowin* – Tribal Customs Elections Code, which does not contain the Common Law Marriage Prohibition.

7. Despite this fact, the WLFN Election Committee applied the old Election Regulations and held that the Applicant was ineligible to run in the 2021 Election for Council and Chief on the basis of the Common Law Marriage Prohibition. This application seeks to have this Decision and the Common Law Marriage Prohibition struck down on the basis that they violate section 15(1) of the *Charter*, which recognizes marital status as an analogous ground of prohibited discrimination.

Decision to deem the Applicant an ineligible candidate for the 2021 Elections

8. The Applicant attended the nomination meeting for the 2021 Elections on April 15, 2021, where she provided nomination documents signed by a nominator and seconder, and also made a sworn statement as requested by the electoral officer. At the nomination meeting, the officer asked the Applicant if she had a marriage certificate, and she replied in the affirmative, and added that she also had a death certificate, attesting to the death of her children's father and former husband. The Applicant's nomination was accepted at the nomination meeting.

9. On April 20, 2021, at 4:35 pm, the Applicant received an e-mail from Ed Cardinal, the Chair of the Election Appeals Committee. The e-mail stated:

Please be advised that there has been a written letter of appeal forwarded to the Appeals Committee regarding your elibility [sic] run in in the 2021 Whitefish Lake First Nation #128 Elections. Section 1 (C) of the Nations Electoral By-law has been cited and referenced as the basis for your eligibility.

To this end , we are seeking an audience with you today April 29th/2021 in the Tribal Council Chambers to discuss our decision relative to this matter.

Kind Regards
Ed Cardinal
Chairman Appeals Committee

10. When the Applicant attended the Committee meeting that evening, she was provided with a new letter, signed by all the members of the Committee, which stated:

To: Loma Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 19, 2021 in the Council Chambers to address letters protesting candidates. In accordance to the Tribal Custom Electoral Bylaw Section I(c), it has been determined that you are not an eligible candidate for the 2021 Elections, as you are in a common law relationship.

Also, the proxy letters that you presented to the Electoral Officer appear to be presumptuous and ambiguous in nature and have not been notarized or commissioned by a Commissioner of Oath.

Based on the above, the Appeals Committee have ruled that you are not an eligible candidate; signed by the signatures below appearing:

11. The Applicant told the Committee that she felt that the second paragraph of the letter was not appropriate as she had been called to the Committee meeting only to discuss the issue of her eligibility regarding section 1(c) of the Elections Regulation, which is the Common Law Marriage Prohibition.

12. The Committee then retired *in camera* to discuss the Applicant's position. When the meeting reconvened, the Committee provided the Applicant with a revised letter, which entirely omitted the second paragraph of the previous letter. Mr. Cardinal then told the Applicant that her eligibility for candidacy was being appealed only on the basis that she was in a common law relationship.

13. The Applicant stated that a court decision in 2017 had struck down the Election Regulation, and that Saddle Lake Cree Nation had implemented new election rules.

14. The Applicant requested that the Election Appeals Committee do the right thing in reference to her position that it was not appropriate to follow the Election Regulations and specifically the Common Law Marriage Prohibition. However, Mr. Cardinal responded that "it's already done," indicating that in fact the Appeal Committee had already made its decision the previous day.

15. The next day, the Applicant asked Mr. Cardinal for a letter outlining the Decision. Mr. Cardinal provided a letter later that day, which stated:

To: Loma Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 20, 2021 in the Council Chambers to address your eligibility.

As discussed last evening in the Council Chambers that you are not eligible to run in the Whitefish Lake Band #128 Elections 2021 pursuant to Section I(c) of the Tribal Custom Election Bylaw.

We have come to a conclusion that we are going to uphold the requirement of the Tribal Custom Elections, which deems that you are not eligible.

Based on the above, we have made a final decision to omit your name from the list of candidates who are eligible to run.

The Decision and the Common Law Marriage Prohibition violate section 15(1) of the Charter

16. The Decision is expressly based on the Applicant's marital status, which is a recognized ground of prohibited discrimination under section 15(1) of the *Charter*. As a corollary, the distinction imposed by the Common Law Marriage Prohibition perpetuates prejudice on the basis of stereotyping and offends the Applicant's essential worth and dignity as an individual.

The Applicants rely on the following statutory provisions, rules and principles:

17. *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, including the *Canadian Charter of Rights and Freedoms*.

18. *Federal Courts Act*, R.S.C. 1985, c. F-7, s. 18.1.

19. *Federal Courts Rules*. SOR/98-106.

This Application will be supported by the following material:

20. The Affidavit of Lorna Jackson-Littlewolfe, to be filed;

21. Such further and other affidavits and material as counsel may advise and this Honourable Court permits.

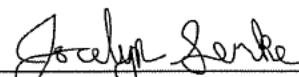
Pursuant to Rule 317 of the *Federal Courts Rules*, the Applicant requests that the Respondents send the following material that is not in the possession of the Applicant but is in the Respondent's possession, to the Applicant and to the Registry:

22. The record of all documents and other materials before the Respondents informing the Decision.

23. The record of all documents and other materials related the adoption, review and continued utilization of the Election Bylaw, including specifically the Common Law Marriage Prohibition.

24. Such further and other material that may be in the possession, power or control of the Respondents and which may be relevant to these proceedings.

Date: May 14, 2021



Jocelyn Gerke and Marty Moore
Lawyers for the Applicant

Justice Centre for Constitutional Freedoms
#253, 7620 Elbow Dr SW
Calgary, Alberta T2V 1K2



THE FOLLOWING HAS BEEN TAKEN FROM THE MINUTES OF THE BAND MEETINGS HELD ON THE SADDLE LAKE RESERVE IN 1955 AND 1960. ALL AREAS NOT COVERED BY THE OUTLINE HEREIN SHALL BE COVERED UNDER THE INDIAN ACT, AS SPELLED OUT IN SECTION 73 TO 78.

Denis Leroux (copy)

ELECTION REGULATIONS

Section (1):

Eligibility for Nomination:

- (a) No person who is a Civil Servant shall be eligible to be nominated.
- (b) No person can be nominated for an election if absent, unless he/she has signified in writing his/her acceptance of the nomination.
- (c) No person living in a Common Law marriage shall be eligible for nomination.
- (d) No person who maintains his/her home off the Reserve shall be eligible for nomination. (If he/she has his/her main place of residence or his/her family on the Reserve and works off the Reserve, he/she shall become eligible. However, he/she is allowed to miss only one regular meeting, except for illness.
- (e) No person convicted under the Criminal Code of Canada shall be eligible for nomination.
- (f) No person under the age of 21, as of the day of nomination, shall be eligible to nominate or be nominated.
- (g) No nomination is valid without a seconder.

Section (2):

Voting Regulations:

- (a) Any Band member, over the age of 21 years, on the day of the election, whether living on the Reserve or not, shall be eligible to cast a vote; with the exception of Red Ticket Indians.
- (b) Residents of the Goodfish Lake Reserve shall not be allowed to vote for a Chief or Councillor on the Saddle Lake Reserve.
- (c) Residents of the Saddle Lake Reserve shall not be allowed to vote for a Chief or Councillor on the Goodfish Lake Reserve.
- (d) A person who is not a resident of either Reserve, but who is a member of the Band, may vote once on the Reserve of his/her choice.

Section (3):

Election Procedural Regulations:

- (a) Chief and Councillor are elected for a three-year term.
- (b) There shall be nine Councillors for the Saddle Lake Reserve.
- (c) There shall be four councillors for the Goodfish Lake Reserve.
- (d) The election of the Chief shall be held pursuant to the election of the Councillors and the Chief shall come from among the elected Councillors.
- (e) There shall be an interpreter* (one for the Saddle Lake Reserve and one for the Goodfish Lake Reserve) appointed at a Band meeting for both the nomination and election days.
- (f) A Councillor or Chief guilty of improper conduct who has had a petition requesting his/her removal, signed by 60% of the resident members of the Reserve, shall be so dismissed by the Incumbent Electoral Officer and a bi-election shall be called to fill the vacancy.

- (g) The District Supervisor is the permanent Electoral Officer and it shall be his responsibility for the calling of elections at the end of each three-year term. His method of conducting nomination meetings (except for the closing of it), the secret ballot, the opening, closing, and counting of the ballots shall be the same as set forth in the Band Election Act, Section 73, of the Indian Act, as long as they do not conflict with any regulations, rules or ordinances passed by the Band. The Electoral Officer is authorized to appoint Poll Clerks, and authorized to pay the cost of the election from Band funds after the count has been submitted to Council and approved.

*This not possible
any more as
Dist Officer has
no authority
to make decision
should appeal
be requested.
This is Chief's Council
authority*

- * Interpreter: shall be a person who can effectively interpret from the Cree language into the English language and from the English language into the Cree language. This person shall not be a member of the Saddle Lake Band. He/She shall be paid at a rate set by the Band Council.

Special Nomination Meeting Procedures

No person other than an elector who resides in a section may be nominated for the office of councillor to represent that section on the council.

Indian act. Section 75, sub, "1".

No person may be a candidate for election as chief or councillor unless his name is set in nomination and seconded by persons who are themselves eligible to be nominated. *Indian Act Section 75, sub "2", R.S., c 149, s 74.



April 20, 2021

To: Lorna Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 19, 2021 in the Council Chambers to address letters protesting candidates. In accordance to the Tribal Custom Electoral Bylaw Section 1(c), it has been determined that you are not an eligible candidate for the 2021 Elections, as you are in a common law relationship.

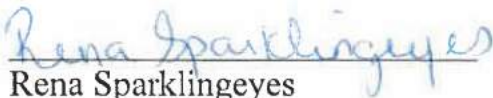
Based on the above, the Appeals Committee has ruled that you are not an eligible candidate; signed by the signatures below appearing:



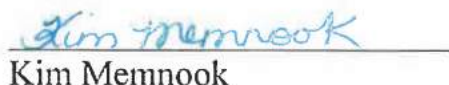
Ed Cardinal



Doreen Jackson



Rena Sparklingeyes



Kim Memnook



Mary-Anne Sparklingeyes



Box 271 Goodfish Lake, AB T0A 1R0

April 21, 2021

To: Lorna Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 20, 2021 in the Council Chambers to address your eligibility.

As discussed last evening in the Council Chambers that you are not eligible to run in the Whitefish Lake Band #128 Elections 2021 pursuant to Section 1(c) of the Tribal Custom Election Bylaw.

We have come to a conclusion that we are going to uphold the requirement of the Tribal Custom Elections, which deems that you are not eligible.

Based on the above, we have made a final decision to omit your name from the list of candidates who are eligible to run.\



Ed Cardinal

Elections Committee Chairperson

Court File No.: T-808-21

FEDERAL COURT

BETWEEN:

LORNA JACKSON-LITTLEWOLFE

Applicant

- and -

WHITEFISH LAKE FIRST NATION #128 and SADDLE LAKE FIRST NATION #462

Respondents

AFFIDAVIT OF LORNA JACKSON-LITTLEWOLFE

SWORN ON JUNE 23, 2021

I, Lorna Jackson-Littlewolfe, of Whitefish Lake First Nation #128, Alberta, SWEAR THAT:

1. I am a Cree woman with status under the *Indian Act*. I am a member of the Whitefish Lake First Nation #128 ("Whitefish Lake"). Whitefish Lake is also known as Goodfish Lake. I have personal knowledge of the facts herein deposed except where based on information and belief, in which case I verily believe the same to be true.

Personal Background

2. I was born on April 2, 1971. My parents are Jerry and Inez Jackson who were members and residents of Whitefish Lake. I grew up at Whitefish Lake. I left in December 1989 when I was 18 years old and moved back permanently to Whitefish Lake in June 2005 when I was 34 years old.
3. In December 1989, I married Lawrence Littlewolfe of Onion Lake Cree Nation, Saskatchewan. Lawrence had status under the *Indian Act*. We had five children through our marriage, and now have nine grandchildren.
4. Four of our children live off Whitefish Lake due to housing shortages. One still lives on Whitefish Lake. Lawrence and I separated on February 14, 1997. He died of cancer on April 14, 2020.

5. I have been in my present home located near Goodfish Lake on Whitefish Lake First Nation #128 since July 2005.
6. I met my current partner, Leon Cardinal, in June 2013. Leon is a member of Saddle Lake Cree Nation #125 and has status under the *Indian Act*. Leon moved into my home in July 2013, and we have been in a common law relationship since then.

Involvement in Politics

7. In December 2005, I became active and engaged in politics by learning more about the relevant processes and policies at the federal, provincial and community level. I have shared my knowledge and perspective with my community every chance I get.
8. As a band member and resident, I observed the 2005 Council and Chief election and participated in counting the ballots. In prior years, I would return to Whitefish Lake to cast my vote and then leave.
9. The November 2008 election was the first time I sat as a scrutineer for two of the candidates. I also served in this role in 2011, 2013 and 2017. These experiences caused me to ask questions and research more about the elections process over the years. I wanted a better understanding of how the process worked.
10. In late October 2008, with a few other women from my community, we started organizing forums for the candidates during our elections scheduled for that November. We believed that it gave equal opportunity for candidates to engage in conversation with our people and for candidates to present their platform to the people. I also ran these forums in 2011, 2014, and 2017.
11. For the Council and Chief elections in April 2021, I did not organize a forum because I knew I was going to submit my name for candidacy in the elections.
12. In November 2019, I became an admin to one of our few community pages on Facebook, known as "Pakan's People". I share information with the community members so they too can also be informed.

Relationship Between Whitefish Lake and Saddle Lake

13. Whitefish Lake First Nation #128 is part of the Saddle Lake Cree Nation #462, which is the mother nation to both Whitefish Lake and the Saddle Lake First Nation #125 ("Saddle Lake").
14. The Whitefish Lake territory is located approximately 65 km northeast of St. Paul, Alberta, and 45 km north of the Saddle Lake territory.
15. It is important to keep up with Saddle Lake, as we share six joint common interests, two of which pertain to the election process: "Government of membership" and "The changing of Tribal Customs would have to be agreed upon by both reserves". See October 9, 1990 Joint Band Council Resolution of Saddle Lake and Whitefish Lake, attached hereto as **Exhibit "A"**.

Saddle Lake and Whitefish Lake Election Regulations

16. In 2016, I was aware of the case of Eric Shirt, Greg Cardinal, Shannon Houle and Valerie Steinhauer against Saddle Lake Cree Nation, which challenged the Saddle Lake Tribal Customs Election Regulations (the "Election Regulations").
17. I attended a meeting at Saddle Lake with the Elders in mid-July 2017 at the Elders Lodge, which is centrally located on the reserve near the Band Administration Office. There were about 65 community members, registered under the *Indian Act*, in attendance. Eric Shirt presented a letter that was dated June 10, 2016, that he had submitted to the Appeals Committee/Chief and Council. He talked about how he was eliminated as a candidate and how the Appeals Committee failed him. He also discussed how this decision was quashed through the courts. Eric met with the Elders to get support to have a new election based on the decision made by the courts. I started attending meetings with Saddle Lake members from then on to follow how the case was going to go.
18. On April 12, 2017, the Federal Court had issued a decision that found the Election Regulations were inadequate and even stated that "a provision preventing nomination for election based on marital status alone would seem to be a discriminatory practice and unconstitutional." The Court required the recognition of new election customs through membership consensus or amendment of the Election Regulations.

Creation of New Election Code

19. On May 8, 2017, Whitefish Lake held an information meeting on the Election Regulations. During this meeting it was discussed that there would be a call out for members to submit letters of interest to sit on a working committee to create a new election code. Attached hereto is a copy of the Meeting Minutes as **Exhibit "B"**. I understood that due to the Federal Court decision concerning the Election Regulations, the working committee would help create new Elections Regulations for use on Saddle Lake and Whitefish Lake.
20. Whitefish Lake put out an invitation for letters of interest by May 1, 2018, for two committee members to be part of the Working Group to work in collaboration with the leadership and members of both Whitefish Lake First Nation and Saddle Lake Cree Nation to update the Election Regulations (a copy of this invitation is attached hereto as **Exhibit "C"**).
21. I had submitted my letter of interest on April 20, 2018 (a copy of which is attached hereto as **Exhibit "D"**). There was an issue of it being received, so I resubmitted my letter of interest on May 29, 2018 (a copy of which is attached hereto as **Exhibit "E"**). On June 13, 2018, I received my letter of acceptance that I was appointed to the Whitefish Lake – Saddle Lake Membership/Election Code Working Group (a copy of which is attached hereto as **Exhibit "F"**).
22. There were four members of the Working Group – Carl Bull, Sam Jr. Bull, Patsy Houle and myself – who got letters from Whitefish Lake appointing us to participate in the meetings to create a new election code. A copy of Patsy Houle's letter of acceptance is attached as **Exhibit "G"**.
23. On June 18, 2018, the first meeting of the Working Group was held. The second meeting was held July 3, 2018.
24. As part of the Working Group's work, an "Election Law Survey" was created to obtain feedback from Saddle Lake and Whitefish Lake members about potential changes to the Election Regulations. We collected over 300 surveys from members of Whitefish Lake First Nation (a copy of the survey is attached hereto as **Exhibit "H"**). We provided these surveys to Claudia Makokis and Jennifer Jackson, both of Saddle Lake, for consideration in drafting the new Saddle Lake/Whitefish Lake election code. Claudia Makokis and

Jennifer Jackson were part of the working group in Saddle Lake. Claudia Makokis and Jennifer Jackson also did online surveys for both nations and went to Edmonton to do the surveys for both nations (a copy of the poster advertising the surveys in Edmonton is attached hereto as **Exhibit "I"**).

25. On July 10, 2018, I went to the Whitefish Lake band office. Evan Steinhauer approached me and told me in his office that the Whitefish Lake Working Group was being dismantled. I later received a letter from Chief Tom Houle reiterating this fact (a copy of which is attached hereto as **Exhibit "J"**).
26. A report of the timeline of these events is attached hereto as **Exhibit "K"**.
27. On July 11, 2018, I submitted another letter of interest as I was told there would be another call out. Attached hereto as **Exhibit "L"** is a copy of my letter of interest. There was another invitation for letters of interest with a deadline of August 10, 2018 (a copy of which is attached hereto as **Exhibit "M"**), but nothing ever happened with that. Right after this, there was an updated invitation for letters of interest based on clans with a deadline that the posting would remain until positions were filled (a copy of which is attached hereto as **Exhibit "N"**). I was told by Mr. Steinhauer that my letter of interest from July 11, 2018 would still qualify for this call out. Once again, nothing came from this call out.
28. Subsequently, there was an invitation on September 25, 2018, for all Saddle Lake and Whitefish Lake band members to come to a community gathering and band meeting (a copy of which is attached hereto as **Exhibit "O"**).
29. I believe Whitefish Lake chose not to participate because our leadership could not work together with Saddle Lake.
30. Saddle Lake continued holding its meetings to work on a new election code. Attached as **Exhibit "P"** is a copy of a briefing note written by Norma Large, the policy writer. I attended these meetings at Saddle Lake because I understood that the new election code would affect how elections were conducted on Whitefish Lake as well. Frequently in attendance at these meetings from Whitefish Lake were Patsy Houle, Karen McCarthy and Simon Sparklingeyes. There was always one or two of them that would be there with me, but never all three at once.

31. Initially the meetings were held at the Saddle Lake Administration office with anyone permitted to attend. This was during July 2018 to October 2018.
32. Then from January 2019 to February 2019, I attended meetings strictly with the Elders of Saddle Lake, with Norma Large as the policy writer.
33. In February 2019, the Saddle Lake Elders agreed on a final draft of a New Election Code. Although there were people who wanted a referendum on the New Election Code, no referendum was held, as the Elders stated the New Election Code was being adopted pursuant to the Court order. A copy of the new *onihcikishwapowin* – Tribal Customs Elections Code posted on the website of Saddle Lake is attached hereto as **Exhibit "Q"**. A copy of the new election appeals procedure posted on the website of Saddle Lake is attached hereto as **Exhibit "R"**. A copy of the new Terms of Reference posted on the website of Saddle Lake is attached hereto as **Exhibit "S"**. These documents are collectively referred to herein as the "New Election Code".
34. Community input meetings were advertised and held to inform both the members of Saddle Lake and Whitefish Lake about the New Election Code. I recall seeing posters in Whitefish Lake advertising these meetings.
35. On June 12 and 19, 2019, Saddle Lake conducted its election for Council and Chief, respectively, utilizing the New Election Code. The New Election Code was designed to apply to both Saddle Lake and Whitefish Lake.
36. In 2019, when Saddle Lake had elections, because it was court ordered that they needed a new election code, they used the New Election Code. Consequently, in the Saddle Lake 2019 Elections, people living common law and also living off of Saddle Lake were eligible to run as candidates. For example, at least ten candidates in this election were in common law relationships, at least three of which were elected. There was also a candidate that was not living on Saddle Lake. A copy of the Saddle Lake Cree Nation 2019 Council Results which are available on the Saddle Lake website, is attached hereto as **Exhibit "T"**.

Lead-up to the Whitefish Lake Election

37. In recent years, I have sought more documentation about election systems. A couple years ago, I went to Finley Moses at Saddle Lake who collects documents and he gave me a copy

of the Original Minutes for the Election Regulations, which is attached hereto as **Exhibit "U"**.

38. Prior to 1955, Whitefish Lake had a hereditary chief, where within the family lineage of the original chiefs a man within that family was groomed to be the next chief.
39. In March 6, 2019, Stan Houle, who was then proxy to the chief from 2017 to 2021, made an announcement at a meeting (a copy of the meeting invitation is attached hereto as **Exhibit "V"**) that there would be a joint council meeting with Saddle Lake within two weeks to sign a BCR that would enable us to write our own election code and membership code. Nothing happened, so then I contacted Eddie Makokis, Saddle Lake's chief at the time, to see if my chief and council had contacted them, but they had not.
40. In 2019, I sat with the Women Elders in my community for approximately three months on a weekly basis. We shared many thoughts and ideas about our community. We also shared concerns of the hardships that our community was facing. It was during this time that one of the women approached me and asked to consider running for leadership in our community. I responded by saying, "who will keep leadership in line if I run?" the Elder replied by saying, "you will of course, it would make your role easier if you sat in council, you could hold everyone accountable in office." I sat there thinking, why had not I thought of that before, so I said to the Elder, "you know you're right, I never looked at it in that perspective." It was then the seed was planted that I should run for leadership in the next election, which should have been in 2020.
41. In November 2020, our elections were to have been scheduled, but no announcements were made to the community prior. By the end of October, community members were phoning me asking if I knew what was going on or phoning me to let me know what was being said amongst our community that the elections were going to be postponed. In the first week of November 2020, we as a community got the announcement that the elections were going to be postponed until February 4, 2021. The announcement to delay the election was due to Covid-19 and the deaths of community members. With this announcement to our community, a group of Elders contacted me saying they wanted to do something about it and asked me to hold a meeting.
42. Within a period of time meeting with the group of Elders, with me as their secretary, we made two petitions readily available for our community members. Previously the Elders

had created a petition on October 15. Then I worked with them to create two other petitions on November 5 and November 16. The November 5 one was signed by the Elders and the November 16 one was backed by the members of Whitefish Lake. A copy of each of these petitions are attached hereto as **Exhibit "W"**. On November 6, the five Elders sent a letter to inform the Chief and Council. I also sent emails to our band administrator Evan Steinhauer, and the INAC regional officer of our area, Jim Sisson, in regard to what the Elders were doing. A copy of each of these letters and emails are attached hereto as **Exhibit "X"**.

43. Within the first week of January 2021, the voters list was made available to the community. It is standard procedure to have it posted one month prior to the date of nominations. The February 4, 2021 elections were postponed again due to high numbers of Covid-19 cases in our community; we also had some deaths within our community.
44. The elections were then postponed to April 1, 2021. The number of Covid-19 cases had decreased by this time, but there were still individuals who were sick and our Chief's son died.
45. Elections again were postponed a third time to April 15, 2021. A copy of the Notice to Potential Candidates is attached hereto as **Exhibit "Y"**.
46. The elections were postponed a fourth time; the election for the position of four (4) Councillors for Whitefish Lake was held April 29, 2021, and the Election for Chief was held May 6, 2021. A copy of the Notice for Councillor Election Day is attached hereto as **Exhibit "Z"**.
47. I believed the election would be held in accordance with the new Elections Code, which requires that a nomination fee be paid. For this reason, I saved up \$500 to pay the anticipated nomination fee.

Candidacy Nomination

48. When I decided who I would ask to be my nominator and seconder, I knew I was going to base my campaign on running with my own name and creditability. I did not want to rely on the reputations of other members in my community, so I asked my children, who have been registered band members since birth and lived in the community since 2005 when we moved back home.

49. I assisted my son Michael Littlewolfe and my daughter Rosalynn Littlewolfe to have their documents ready for nomination night. I also had discussions with them about if they could not attend the nomination meeting. To deal with this potential situation, they created letters which contained their nomination and seconder declaration and a picture of their status cards.
50. It was not an uncommon practice in prior elections at Whitefish Lake for candidates, nominators, or seconders to submit letters if they could not personally attend nomination night. In prior elections, there was never any objection for any other band member to submit a letter from a nominator or a seconder to present a candidate. It has been done in prior terms as long as the nominator or seconder had a valid reason for not attending in person.
51. As it turned out, my children Micheal and Rosalynn could not attend nomination night April 15, 2021 due to unforeseen circumstances. My son Micheal works for Seven Lakes Oilfield Services in a camp north of the Cold Lake military base. It was during nomination night that he was in camp on shift. Rosalynn is a mother of three and she also could not attend nomination night due to unforeseen circumstances. Her children took ill approximately a week prior and she had to tend to their needs.
52. At the April 15th, 2021, nomination night, there were two other candidates who were not in attendance and had other band members read out their acceptance letters for candidacy.
53. On April 15, 2021, the night of the nominations was scheduled from the hours of 6:00 pm to 8:00 pm and was held in the Pakan School gymnasium. I attended with the documents required for both Micheal Littlewolfe and Rosalynn Littlewolfe to present at nomination night. The said documents contained a letter that stated their name, status number and address and also had a picture of their Indian status card and a criminal record check. These documents were signed individually by Micheal and Rosalynn. A copy of each of these documents are attached hereto as Exhibit "AA".
54. When it was my turn to step up to the podium, I read my son's letter, then I proceeded to read my daughter's letter. Once those were read, I accepted the nomination.
55. I was then asked to proceed to the cubicles to get them sworn in. At the first cubicle, I handed in Micheal's documents and signed an affidavit that those were Micheal's documents and his signature was on the documents. At the second cubicle, I handed in

Rosalynn's documents and signed an affidavit that those were her documents and her signature was on her documents.

56. The commissioner of oaths who sat there made small talk with me. After she saw my married name, she asked if I was from Onion Lake. I said I married a man from there but remained registered with my own band. She said that she also had married a man from Onion Lake.
57. It was at this time that the Electoral Officer Brenda Vanguard (the "EO") approached me and asked, "why didn't your nominator and seconder attend this evening for nominations?" I replied that my son Micheal works in camp and could not make it as he works outside of Cold Lake near the airbase and that my daughter Rosalynn was at home tending to three sick babies and that she was afraid to come to nominations because she did not want to bring any germs or virus there. The EO then asked, "do they have Covid?" I replied, "no, it is not Covid, just a bad flu." She replied, "oh ok" and she walked away.
58. I then proceeded to go to the third cubicle, where I submitted my documents to the third commissioner of oaths. I handed over my documents and was signing my paperwork when the EO approached me again. She asked me, "do you have a marriage certificate?" I replied, "Yes I do. I also have a death certificate. My kids' dad passed away last year in April." The EO replied, "oh ok" and walked away again.
59. I finished my paperwork and proceeded to exit the gymnasium. I understood that I had successfully completed the required process to run as a candidate in the elections for Chief and Council.

Decision to Deny My Candidacy

60. On April 20, 2021, at approximately 4:00 pm, Chairperson Ed Cardinal phoned me. He said, "hi, can you meet with us this evening?" I said, "who is this?" He said, "Ed Cardinal, chairperson for the appeals committee." I said, "in regards to what?" He said, "you've been appealed." I said, "on what grounds?" He said, "uh um (short pause) common law, I think." I further went on to say that I wanted a letter of invitation to attend the appeals meeting before I go and to send it to my email which I gave him.
61. Then on April 20, 2021, at 4:35 pm, I received an email from Ed Cardinal, which is attached hereto as **Exhibit "BB"**. The email stated:

Please be advised that there has been a written letter of appeal forwarded to the Appeals Committee regarding your elibilty [sic] run in in the 2021 Whitefish Lake First Nation #128 Elections. Section 1 (C) of the Nations Electoral By-law has been cited and referenced as the basis for your eligibility.

To this end , we are seeking an audience with you today April 29th/2021 in the Tribal Council Chambers to discuss our decision relative to this matter.

Kind Regards

Ed Cardinal

Chairman Appeals Committee

62. I responded to Mr. Cardinal both by text and email, requesting that he provide a letter with the proper date and time. Screenshots of my text communication with Mr. Cardinal on April 20, 2021 are attached hereto as **Exhibit "CC"**. A copy of my email to Mr. Cardinal on April 20, 2021 is attached hereto as **Exhibit "DD"**. I did not receive a response from Mr. Cardinal, so I called him and learned the time of the meeting. On the phone, Mr. Cardinal told me when the meeting would start and that he would give me a corrected letter at the meeting.
63. When I attended the Committee meeting that night, Mr. Cardinal provided me with a new letter, attached hereto as **Exhibit "EE"**, signed by all the members of the Committee which stated:

To: Lorna Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 19, 2021 in the Council Chambers to address letters protesting candidates. In accordance to the Tribal Custom Electoral Bylaw Section 1(c), it has been determined that you are not an eligible candidate for the 2021 Elections, as you are in a common law relationship.

Also, the proxy letters that you presented to the Electoral Officer appear to be presumptuous and ambiguous in nature and have not been notarized or commissioned by a Commissioner of Oath.

Based on the above, the Appeals Committee have ruled that you are not an eligible candidate; signed by the signatures below appearing:

64. I told the Committee that the added second paragraph was not appropriate as I had been called to the Committee meeting only to discuss the issue of my eligibility under section 1(c) of the Election Regulations.

65. The Committee retired *in camera* to discuss my request. When the meeting reconvened, the Committee provided me with a revised letter, attached hereto as **Exhibit "FF"**, which entirely omitted the second paragraph of the previous letter.
66. Mr. Cardinal then told me that I was being appealed on the basis that I was living common law.
67. I asked the Committee what was their proof that I was living common law. The Committee members put their heads down in the awkwardness of the moment.
68. I told the Committee that they needed proof and that they could not just go by allegations or hearsay.
69. Doreen Jackson, who was a member of the Committee, then told me that it was community knowledge that I lived in a common law relationship. I asked Mrs. Jackson whether she was at the meeting as a community member or a Committee member, to which she responded that she was there as a Committee member.
70. I confirmed with the Committee that I had not lied about my marital status, and that I would give them the same answer that I gave the Electoral Officer the night of nominations.
71. I told the Committee that I had a marriage certificate, but I also had a death certificate, since my husband had died.
72. I proceeded to tell them, the following:
- Let me educate you a little on how you should have addressed this. Where you all went wrong is asking the proper question. What you should have asked me is "do you live in a common law relationship?" You see, there's a big difference in how the questions are asked. I would have told you, "yes I live in a common law relationship." I wouldn't have lied to you. But you all kept asking me "if I had a marriage certificate," which I said yes and I do have one and a death certificate. I didn't lie there at all.
73. I then continued to ask the question which the Committee had not asked me: "Do you live in a common law relationship?" I then answered my own question before the Committee in the affirmative.
74. After another awkward silence, Mrs. Jackson stated, "see, you finally admitted to it," while she held a copy of the Election Regulations and was pointing at it. So I asked her to confirm what she said. Mrs. Jackson said, "we follow the same election laws as Saddle Lake". Mrs. Jackson then proceeded to state that Whitefish Lake was one band with Saddle Lake and follows the same Election Regulations.

75. I responded, explaining that times have changed, and that in fact a court decision in 2017 had struck down the Election Regulations, and that Saddle Lake had implemented a New Election Code. I handed up two printed copies of the court decision in 2017 and told them to read paragraph 67. As I proceeded to hand the second court document to Kim Memnook, she said, "it's ok I have one, I did my research." So I handed the second document to Mary-Anne Sparklingeyes.
76. I urged the Committee to "do the right thing" and not follow the discriminatory provision in the old Election Regulations.
77. Mr. Cardinal proceeded to say, "we were given a mandate to follow." I said, "a mandate from who?" He said, "from the CEO and chief and council!" I said, "who is the CEO?" He said "Evan Steinhauer". I further said:
- Let me educate you on this process a little. Evan is the band administrator, his only involvement in this process is to do a call out for an Electoral Officer and also for the elections committee. That's it. The rest is up to the Electoral Officer to run the elections to the best of her ability. As for Chief and Council, they have no say, once the election is called to open on nomination night, we have no chief and council. You cannot be given any mandate from anyone, you as a committee need to do your job and to do what's right.
78. Mr. Cardinal however, responded that "it's already done", referring to the fact the Decision had already been made.
79. I said, "ok if that's the decision you choose to make, I will see you all in court cause guaranteed I will be taking this to a judicial review." And I thanked them for their time to allow me to speak.
80. The next day, on April 21, 2021, I texted Mr. Cardinal, asking him for a letter based on the Decision made by the Appeals Committee and a copy of the minutes that were taken during the meeting. Screenshots of my text communication with Mr. Cardinal on April 21, 2021 are attached hereto as **Exhibit "GG"**. Mr. Cardinal initially refused, so I emailed Brenda Vanguard, the EO for Whitefish Lake. The email is attached as **Exhibit "HH"**. After initially refusing both requests, I got a call from Mr. Ed Cardinal. He said, "your letter is ready." I said, "ok, I will be right there to pick it up," and then he hung up on me. I stopped by the Administration Building later that day to pick of the letter, which is attached hereto

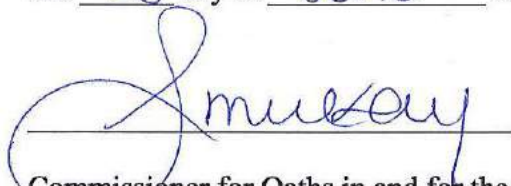
as **Exhibit "II"**. Mr. Cardinal also provided me with a signed copy of the Election Regulations, which are attached hereto as **Exhibit "JJ"**.

81. On April 28, 2021, my counsel sent a letter to the Committee, Brenda Vanguard and Evan Stienhauer, attached hereto as **Exhibit "KK"**.

82. I swear this affidavit *bona fide*, for no improper purpose.

SWORN BEFORE ME at

St. Paul, Alberta,
this 23 day of June 2021.


Commissioner for Oaths in and for the
Province of Alberta

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LORNA JACKSON-
LITTLEWOLFE

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

This is Exhibit "A" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "A"

NOTE: The words "from our Band Funds" "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.
 NOTE: Les mots "des fonds de notre bande" "capital" ou "revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes.

The Council of the le conseil de		WHITEFISH LAKE BAND #128/ SADDLE LAKE BAND #125		Cash free balance - Solde disponible	
Date of duly convened meeting Date de l'assemblée dument convoquée		DY	M	YA	Province
		0	9	10	Alberta
				Capital account Compte capital	\$ _____
				Revenue account Compte revenu	\$ _____

DO HEREBY RESOLVE:
 DÉCIDE, PAR LES PRÉSENTES:

WHEREAS, the Chiefs and Councils of the Saddle Lake Band of Indians which includes Whitefish Lake Band #128 are responsible for the peace, order and good government of the Bands and its membership; and

WHEREAS, Governance of the Saddle Lake Band of Indians is under the jurisdiction and authority of its membership and those principles as determined by the Saddle Lake Tribal Customs; and

WHEREAS, the current election process under the Governance, jurisdiction and authority of those principles as identified as the Saddle Lake Tribal customs; and

WHEREAS, it is unequivocally understood by both bands and its membership that the Saddle Lake Tribal Customs remain unaltered until such matters are clarified and ratified by both band memberships and by referendum; and

THEREFORE, BE IT RESOLVED that the people of the Saddle Lake Indian Tribe having inherent right and traditional duty to determine and control the membership of the tribe assert their jurisdiction and authority as determined by the Saddle Lake Tribal Customs; and

Continued on Page 2

Saddle Lake Band #125
 consists of a quorum of
 Quorum Five (5)

Chief
 (Councillor - Conseiller)
Ray White
 (Councillor - Conseiller)
Alvin White
 (Councillor - Conseiller)

Chief
 (Councillor - Conseiller)
Shirley Dwyer
 (Councillor - Conseiller)
Leon Cardinal
 (Councillor - Conseiller)
Marge
 (Councillor - Conseiller)

Whitefish Lake Band #12
 consists of a quorum of
 Three (3)

Chief
 (Councillor - Conseiller)
Robert McNamee
 (Councillor - Conseiller)
Mike Blum
 (Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE

Expenditure - Dépenses	Authority (Indian Act Section) Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue	Expenditure - Dépenses	Authority (Indian Act Section) Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue
Recommending officer - Recommandé par Signature _____ Date _____			Recommending officer - Recommandé par Signature _____ Date _____		
Approving officer - Approuvé par			Approving officer - Approuvé par		

NOTE: The words "from our Band Funds" "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.
 NOTE: Les mots "des fonds de notre bande" "capital" ou "revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes.

The council of the Le conseil de		WHITEFISH LAKE BAND #128/ SADDLE LAKE BAND #125		Cash free balance - Solde disponible	
Date of duly convened meeting Date de l'assemblée dûment convoquée		D-J	M	Y-A	Province
		0	9	1	0
		0	9	0	Alberta
		Capital account Compte capital		\$ _____	
		Revenue account Compte revenu		\$ _____	

DO HEREBY RESOLVE
 DÉCIDE, PAR LES PRÉSENTES:

BE IT RESOLVED THAT:

- A. It has been traditionally understood by tribal customs that both Chiefs and Councils must agree and decide on the six (6) common issues:
1. Surrendering of common owned land.
 2. Governing of membership
 3. Governing of per capita distribution accounts
 4. Determining the types of By-laws that would govern both reserves.
 5. The changing of Tribal Customs would have to be agreed upon by both reserves.
 6. Treaty obligations must be dealt with by both parties and must be agreed to; and
- B. Any Ad Hoc changes to any of the above common issues without proper consent by both band memberships will be declared null and void.

Saddle Lake Band #125
 consists a quorum of
 Quorum Five (5)

[Signature]
 (Councillor - Conseiller)
[Signature]
 (Councillor - Conseiller)
[Signature]
 (Councillor - Conseiller)

[Signature]
 (Chief - Chef)
[Signature]
 (Councillor - Conseiller)
[Signature]
 (Councillor - Conseiller)
[Signature]
 (Councillor - Conseiller)

Whitefish Lake Band
 #128 consists a quorum
 Three (3)

[Signature]
 (Councillor - Conseiller)
[Signature]
 (Councillor - Conseiller)
[Signature]
 (Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE

Expenditure - Dépenses	Authority (Indian Act Section Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue Revenu	Expenditure - Dépenses	Authority (Indian Act Section Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue Revenu
Recommending officer - Recommandé par			Recommending officer - Recommandé par		
Signature _____ Date _____			Signature _____ Date _____		

This is Exhibit "B" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "B"



**WHITEFISH LAKE FIRST NATION
INFORMATION MEETING ON CUSTOM ELECTION LAW
MAY 8, 2017**

VERBATIM MINUTES

OPENING PRAYER -- ELDER SIMON SPARKLINGEYES

Meeting commenced at 6:15 PM

COUNCILLOR KEVIN HALF

- This is an important discussion we are having here today. There are two documents, custom election law and the Saddle Lake Judgment. We need guidance from the people. Custom election law is not a council law, it's the people's law. In 1955 it was by the people. We need to update what we have. That can only happen with your involvement and recommendations. On May 15th there will be a similar meeting in Saddle Lake. There will be a working committee to identify changes to the election law. That is why we're here today, to get you organized. We want a working committee. Start moving on the changes. We will set up future meetings within the next few months. I will give you examples on what may come up. There are recommendations made from the Judge. We need elders to be involved as well.

COUNCILLOR GREG SPARKLINGEYES

- THIS IS One of the things the community needs to discuss. We don't want to be in the court systems. Court documents -- we know what happened in Saddle Lake. Names were taken off the list. They weren't validated in the election system. Judgment came down. Now we realize the nation moved forward as a community. Adopt and believe in as community members here. Judge talks about the decision. Goal here and mandate -- come together -- get it custom. We want to make amendments to it. It's something where have to start from. Custom election code. Some of things we done in past, can be challenged. Appeals committee doesn't talk about this. Nowhere in our elections, is it mentioned. We want community input. They finally allow 18 years old to vote but not to run. Young people will want to run.

COUNCILLOR KEVIN HALF

- That's in a nutshell -- get a committee going. See what changes need to happen.

ELDER SIMON SPARKLINGEYES

- We have 7 common things with Saddle Lake. We need to discuss this with the members. That was made in 1976. Now throughout time, and ever since I can remember in 1957 my dad ran in the elections. Our elections have always been in October. First week nominations. 2 weeks after that the election. We are going to discuss our election law. It's not the first time people are going to challenge it. We have to respect our law. In 1987 there were some people that had an issue in Saddle

Lake. They took it to Mazankowski who wrote to the Minister of Indian Affairs. The Minister wrote back to Saddle Lake and told them: "it's your law". You resolve the issue. It shouldn't go the court. They didn't make a decision to have a re-election. I think that was a mistake. Next election you will have people that don't qualify and will run and what if they take it to court. We must respect our law that we created. If you have questions to election law, we need to discuss that. We need to start up a committee. Look at it. Strengthen it.

COUNCILLOR KEVIN HALF

- That's what we want to do is strengthen our law. That is the results we want out of this meeting. If there are any questions, please ask them and if you want to set up a committee, we will set up that committee. It's our people's law, we have to respect that. The floor is open.

MEMBER

- Where are the other Council?

COUNCILLOR KEVIN HALF

- They are at a Child Welfare Meeting.

ELDER RAYMOND SPARKLINGEYES

- I was in council when the election bylaw was made. Previous to that there was no election bylaw. It used to be lifetime Chief. After that time when late William Bull and Thomas Jackson and Homer were elected, there were elections. First thing we did was make this bylaw in 1955. Now it's being challenged. It will be first time it's challenged in court. Since then, there has been new laws put out by the federal government and also by the province that affects our bylaws. There will always be someone to find the loopholes. One thing, we just allow things like that, policies made by our people, our band and allow one by one to be destroyed by a few members, taking it to court. Perhaps we will start losing our treaty rights. That's what I fear.

COUNCILLOR KEVIN HALF

- Thank you for sharing your knowledge. There are reasons why the election laws are developed. There are ways to strengthen us.

ELDER SIMON SPARKLINGEYES

- This law, we must respect what we have. The 5th election was in 1951. Through people I had talked to - late Allen Houle, they tried to get Chiefs and Councils out every month and they came up with a bylaw in 1953 and was used in 1954. There will be challenges. We have to deal with the Bill C-31 issue. In 1987 two councils passed a motion. In 1958 there was a motion that was passed by Joint Council - members that lives outside the reserve is not allowed to vote. We should put all that information together and see what's in there. For our future generations. We might go. We need to decide how we're going to move forward with this election law. We should strengthen this. We can't do it alone. It's a common issue with Saddle Lake. Let's address those 7 issues. Land and resources - need to deal with that too. It's a common issue we have. We're invited to Saddle Lake next Monday. Joint band meeting.

SANDRA LUCHT

- Back in the day there was respect. Today is a new day for new beginnings for our community. To look ahead. A long time ago we were civil. They didn't use Canadian laws before, for community to work humbly together. Somewhere it's being lost. Our community needs to stand together. Sooner or

later we will be elders. We need something in writing. Once it's written, it's sealed, it's law. We need to be a community in a good way to have structure and support. Don't matter which family we come from. This is good. Always room for learning and growing. I do remember my grandfather Rubin Bull stood for our community. They looked out for the interests for our community. This is the spirit of support. This is a seed to make our tree so vibrant. Help one another. We need to take that step forward. We can learn and work together where we're all winners. That's how I believe. I'm proud to be from Whitefish. I stand for my community.

ELDER SAM JACKSON

- If you change the elder's policies, how are we going to start? You talk about new policies.

COUNCILLOR KEVIN HALF

- On election laws?

ELDER SAM JACKSON

- It's up to the people. Have the policy. You will break it every election. Or say leave it alone. Paul Memhook, Raymond. Keep them alive. Once we break policies, Bill C-31 will run. I disagree. Down the line we will be making our own policies. Let them stay the way they are.

COUNCILLOR KEVIN HALF

- Some people will agree to changes and some won't. It's good discussion here. Everybody is entitled to their opinion.

ELDER SIMON SPARKLINGEYES

- I ran in the elections. We tend not to respect our law. Once we finish the law, put it in Cree. Cree is a descriptive language. We need to respect our laws, our language. Make them strong.

SANDRA LUCHT

- Is there something in the 1955 election law to see how there has been changes in the past. Any documentation?

EVAN STEINHAEUER

- On Ruling, page 25 and 27, that's the only one we have on bylaws

SANDRA LUCHT

- Has there been changes?

COUNCILLOR KEVIN HALF

- There were many drafts. There is a 2014 draft. If there are any changes, it has to be done by Joint Councils. Such as poll stations being set up in the city, allowing 18 year olds to vote. There are other issues. These are things we want to identify as we move forward.

SANDRA LUCHT

- There are other First Nations mentioned. Maybe we want to follow their ways.

COUNCILLOR GREG SPARKLINGEYES

- This judgment refers to other elections. They're in the courts almost weekly. It forms ability – case laws. Canadian courts systems – challenges, couple cases are building that case law. That's what

Judges say: "You have to address your custom law". Do we respect that? The issue at Saddle Lake is a big issue. We have a list of the grey areas with Saddle Lake. We signed Treaty. Ackroyd & Co -- to get recognized by the Indian Act as a nation. It's still in court. We tried stopping it. Our nation tried. What's happening with Bigstone is the same. We couldn't negotiate it. If we believe we are a nation we have to act as a nation. We need to make steps forward. Need to strengthen as a nation. Have input. Make changes. Believe in your changes. We signed treaty but not recognized as a nation under the Indian act. We tried to work with Saddle Lake. If we go into history -- its not going to work. We have open borders. As a nation we have to have people, if we move forward -- on steps -- this is been lacking form many years. I need direction from the community. Bill c31 impact sour land base. Original survey -- our land was under water. There are things that were never challenged by our leaders. Crown sys we have land in Saddle Lake and that's not true. Let's do something together. Start a committee. Courts are saying we have to do something.

MEMBER

- Saddle lake meeting next week. We are invited.

SANDRA LUCHT

- You say to stick together, its starts with the leadership. More people in our community need to be involved.

COUNCILLOR KEVIN HALF

- I haven't seen the invitation. Committee will control the meetings. This is the people's law. For now we are giving direction from leadership to move forward on this. Whatever changes are proposed, we have to accept that. Take it from there.

DAPHNE FAVEL

- How long do we have? What are the timelines?

COUNCILLOR KEVIN HALF

- It's wide open.

COUNCILLOR GREG SPARKLINGEYES

- We want a committee going today. Is it possible before next election? Can the committee have something to go to the people? I don't think it's possible. Every time we have an election, voting on policies, amending new policies -- when community comes together -- we should vote on other things at that time. Is it realistic before election, probably not?

PATTY HOULE

- The Court has forced this on leadership in a good way. Just strictly looking at the election code, we don't need the lawyers, it's the people that should be developing these laws. Can we deal with the separation? Are we in it together? But which way are we going?

COUNCILLOR KEVIN HALF

- In a way, it was on the table. We didn't have to bring it to the people. In what direction it goes. The issue of separation, as of today we are still Joint Council. We found the judgment via fax. These are issues that have to come back to the people. Who's going to give us the direction? I go out to the meetings. I have to speak on behalf of membership. We pushed for a Band Meeting on the 25th. The direction, mandate should come from the people. I have great ideas, but need buy in from the people.

Thank you for being here. It's an important first step. We have to have more meetings. I have nothing to hide but everything to share. I have nothing to gain but everything to give. We have to believe in ourselves. We need to do this together, for the common good of everyone.

ELDER SIMON SPARKLINGEYES

- The government don't only look 1 or 2 or 3 years, but 50 years down the road. First one they use - the Treaties. The Indian Act was written in 1869 and we made the Treaty in 1876. I've been to different elders meetings. When I went to Saddle Lake 2 weeks ago, we talked about the Treaties; meeting after meeting, and there is no accomplishment. 3 years ago I told the elders, - they were talking about the Indian Act, and it was an imposition by the government. In 1972 an elder from Brocket -- he said to Chiefs -- we never ratified the Indian Act that was imposed on us. Now they talk about coming up with our own laws, and 2 weeks ago, I told Charlie Wood, to come up with a template to do away with the Indian Act. Come up with our own laws. What will replace the Indian Act? Things that are good for us. What's good in the Indian Act, we should keep those. We need to come up with something written.

ELDER SAM JACKSON

- When you go to the meetings, you should bring back information back to the people.

ELDER SIMON SPARKLINGEYES

- I've been asking the leadership. We have a rich history. I found a news clipping that was written by the Governor General about our nation, we are the oldest community west of Winnipeg that was established before Treaty. And Treaty 6 has a lot of history education. We had a school 21 years before the Treaty was signed. We had a settlement here already. I want to bring these up to the people. I asked the principal too, he has a lot of history of Whitefish Lake. The government want to take the Indian Act away. Bill C-31, they had no business to deal with our membership. We never gave up that right. We have the right to say this is our member. These are things we need to discuss.

MUSKWA -- ERNEST HOULE

- I'm glad they are trying to do something. I'm getting old. 62 years old. We have young leaders here. They got greedy. It was allowed -- money being used by certain people to make themselves rich. Certain family given money more votes but at same time, leaders were abusing it. Making themselves rich. Over past 30 years. When I was Chief in 1987 to 1990, we had 3 band meetings a year. 2 financial reports and the audit report. Our elders participated and they kept us on toes. Any abuse they brought it up. Since 1990 we had nothing. No band meetings. 2 councillors here and I salute them for trying. We've been going backwards. No economic development to look forward to. These leader have their families having houses. There are couple things I want to bring up -- membership. Children registered in our band. Costs are not included. We here the next generation -- were making them fight. They're not getting along because of membership. I was in Hobbema last week, they're dealing with their membership, in July all the chiefs and councils have to submit their members. Whoever is not on that list, will not be treaty Indians. If we're not included then we become status, not Treaty. July 2017 is deadline. Samson -- gave directive membership clerks to make sure everyone is included in that band list. We have our own clerk in Goodfish, I did question it -- that one lady -- who does she report to, to approve a band member? A lot of issues there. We only have a few election laws, we have 17 pages. It has to be both bands and a referendum from both reserves. The kinds of goings on here is not legal. I salute the people at Saddle Lake to contest it. I encourage them to do it. Do it for your kids. Indian Affairs accepted block funding. \$72 million. I told them I don't want it. Saddle Lake and Goodfish started fighting. We have 7 common issues. Add a safety net. One reserve doesn't want

issues to affect or hurt one another. That was the deal I want to make with Saddle Lake. 30 years ago. Nothing has changed in 30 years. Now we have this appeal. They are having a meeting on 15th. If Saddle Lake don't call an election, they will sue their band. Section 3. Young people suing leadership of mismanagement of funds. See what other people are doing in other reserves. We need accountability. The reasons we don't have accountability – is because to keep people family. Some of us have no hope. What about our kids, our grandchildren. Every last one of us here. No accountability. We should have a membership list – voting list at the band meeting. I never see it. What's happening in July? If you're not on that list, you're out. What is it? Maybe our leaders here knows. That's a huge issue. Separation. Custom law – I don't know who made this.

MEMBER

- Where did the copy of the custom law come from?

MUSKWA – ERNEST HOULE

- Keep the young people involved.

COUNCILLOR KEVIN HALF

- In closing, thank you coming. I have another commitment to go to and have to leave the meeting. But you have my support. Let's get a committee going.

ELDER RAYMOND SPARKLINGEYES

- To say the council are getting rich. I was in council several times. At that time, my pay was 10 dollars a month. I've heard said – it's not the going to be the government to break the Treaty. It will be one of us. Education is good. It's not going to be government to break the treaties.

LORNA LITTLEWOLF

- Where did new one come from, and we are not involved in the revised. Why we were not informed on this?

COUNCILLOR GREG SPARKLINGEYES

- It's being redrafted. So this committee can draft the election code

ELDER SIMON SPARKLINGEYES

- There were many drafts done over time. Looking back, they had no right to deal with our memberships. Bill C-31 – ladies that married out and the ones that married in. 3rd generation can now be reinstated. When is it going to stop? The federal government doesn't look 3 years, but 50-60 years. Members weren't given the land. 1876 they surveyed the land. 1889 – Land was given at Saddle Lake. Two last joint council meeting – Chief Makokis said – if you want to separate let's separate. We need to discuss this issue. He wanted my opinion. He said that 3 times.

COUNCILLOR GREG SPARKLINGEYES

- As we move forward. Custom law, bigger issues we need to deal with. To me it's survival as a nation. 50 years going forward. One of things I know – Saddle Lake is in a pretty good place. We rely on them for survival. Try to fight we can't fight, our people are weak. Department knows where our people are. They have a dept. studying us. They know what our leaders are doing. They want us to fight. We can get on the same page. To create survival we need to bring our people together. 50 years ago. How much money do we need as our population grows, our funding doesn't increase. Does the department keep increasing numbers? How do we get there? We have to start dealing with the

election code. It will drive the community. If we don't have accountability. You can't drive. This is a big first step - the election code.

CRAIG MEMNOOK

- In the US, the leaders have to volunteer in the military. Why can't our leadership volunteer off reserve? Take message of liberation. From oppressive systems. Like the Indian Act. We can't deal with it overnight. Teach ourselves to love ourselves. With history of this community -- before treaty was signed, we were in a nomadic way. We built houses. But the land base doesn't serve us now. Today we need land bases to house our people.

COUNCILLOR GREG SPARKLINGEYES

- We want a list or group of people for a committee.

PATTY HOULE

- At May 15th band meeting, we can we go observe.

COUNCILLOR GREG SPARKLINGEYES

- Saddle Lake process -- we had 4 drafts of a protocol agreement. Even though we have common issues,

PATTY HOULE

- Can we get copies of those?

COUNCILLOR GREG SPARKLINGEYES

- There is a 2006 draft. There have been several drafts up to 2011.

MUSKWA -- ERNEST HOULE

- Can we get a Band List copy for the May 25th Meeting? An Election Voting List. Make that available. There is no appeal process. We have a member, Ralph Whitford, he's 84 years old. He voted all his life then all of a sudden he's taken off the list. Who made those decisions? Too bad other council aren't here. It would be interesting to see who is on the member band list. For funding what do you use?

EVAN STEINHAUER

- Couple of years ago, there was questions regarding capital on how do we get this funding. Initially they gave us 1350 of on reserve. Next I saw 1850. It used to be based on population. We haven't seen the change of the 500 increase.

MUSKWA -- ERNEST HOULE

- 1850 living on reserve what is the total?

EVAN STEINHAUER

- I don't know.

COUNCILLOR GREG SPARKLINGEYES

- It's been brought up in council meeting. Department made the adjustment. 3400 total and 1850 on reserve.

SANDRA LUCHT

- Under Section 10 or 11 of the Indian Act?

ROLAND BULL

- Bill C-31 – we can't get away from that. They're here. But what do we do with them? Are we going to protect them? Once we come up with our laws. It's the government that's pushing the law. If you can prove your dad and mom are from this tribe. It's reality. I sat with Chief Bill Morin. It's the government to say – what are they going to say to our future leaders. What's our plans? What are we going to do as a community? We have to move forward.

MUSKWA – ERNEST HOULE

- 6.2? 1850 people living on reserve. How many are 6.2s and who put them there? How come only certain ones, and not others?

ROLAND BULL

- INAC is doing so much to us.

PATTY HOULE

- If we control our own membership. It's another issue.

ROLAND BULL

- We need to come out with our own implementation of membership. We have to come up with a plan.

ELDER RAYMOND SPARKLINGEYES

- When Sam Bull was in council, he invited to meet on the Residency By-law. We did do up the policy. But it's never been exercised. That was in 1987.

LORNA LITTLEWOLF

- Can I get a copy of the Residency By-law?

ELDER SAM JACKSON

- I want to know about 3 people from Bernard's. They're living outside the reserve. They're blocked from this reserve. 2 died and 3 are living. These are my kids.

COUNCILLOR GREG SPARKLINGEYES

- They are allowed to vote.

ELDER SAM JACKSON

- I brought them here to vote and they weren't allowed to.

COUNCILLOR GREG SPARKLINGEYES

- When I first came into council, I asked – what is status on Bill C-31 and the Residency Bylaw. What is status of those things when I got in? I don't know what the past council did on those. I never got an answer.

ELDER SAM JACKSON

- I want an answer now.

COUNCILLOR GREG SPARKLINGEYES

- I personally can't answer that.

ELDER SAM JACKSON

- 2 of my kids passed away. 3 are living and they have been pushed away from the reserve because of housing.

LORNA LITTLEWOLF

- How was the Election Committee established? Can we make a motion – to get an election committee within the community?

COUNCILLOR GREG SPARKLINGEYES

- We want a committee formed here.

LORNA LITTLEWOLF

- If we select a committee – then you take it to the council, we want a motion tonight – who's to say – there is a vote by you and Kevin and Brian and James and Brian will go away. Any motion made will go out the door. The committee is needed.

COUNCILLOR GREG SPARKLINGEYES

- It will go through a BCR process. Needs 3 for quorum approval.

SANDRA LUCHT

- All Council would have to say is yes, accountability is from the quorum.

COUNCILLOR GREG SPARKLINGEYES

- Need 3 signatures for a quorum.

LORNA LITTLEWOLF

- Who's to say they're not going to back out.

ELDER SIMON SPARKLINGEYES

- Issue of the appeals committee – we might have to come up with a motion to recognize that they are the Elections Committee so it's legitimate. We need to do that before October.

COUNCILLOR GREG SPARKLINGEYES

- I'd like to see a steering committee assigned tonight. Get more members to nominate the Election Committee. We can set an Agenda for the May 25th Band Meeting. Issues such as Election Membership, Roads-Water, Economic Development and Legal. A Motion was made for a Band Meeting

MUSKWA – ERNEST HOULE

- Give us an overview on how our memberships have been administered. Is there one person or a committee? I have a hard time grasping. We have 1850 people, but we have no names.

EVAN STEINHAUER

- It's not how they fund us. It's not based on population anymore. 1300 up to 1850. I took those docs to the FSO – we're going to see some kind of increase on capital. They said they don't fund on per capita. They have their own funding formula. We have to go back to see how they fund us.

SANDRA LUCHT

- How often do they increase? I.e. Inflation

EVAN STEINHAUER

- We're not covered under inflation. We still get \$242k for housing since the 60s.

SANDRA LUCHT

- Can we stand as a community to help us? We're in a crisis due to our roads. We are still oppressed people. There's always hope for us aboriginal people across Canada.

NIUSKWA – ERNEST HOULE

- What is the combined population of Saddle Lake and Goodfish?

EVAN STEINHAUER

- 10370

PATTY HOULE

- We need a membership committee.

COUNCILLOR GREG SPARKLINGEYES

- Do we tackle election or membership? We need 2 committees. I'm a band member. I had same questions. We tried to track money funding from 2000 to 2015. I have same questions. What have we done in the past while? We need to move forward. There is a lack of economic development here. It doesn't seem to go anywhere. It's a lack of priority from some of our leaders. It takes you people to put pressure on those leaders.

LORNA LITTLEWOLF

- We all knows its James and Brian that are not here. It's hard to work with our leaders.

ELDER SAM JACKSON

- You should bring auditors to sit with us, give us the information.

LORNA LITTLEWOLF

- We can bring in a forensic audit. But we as band members have to pay for those fees. They can bring us financial audits. But we have to pay for that.

RANDY BULL

- Chief and Council are obligated to provide that. If you want to see where our money is going, they will give it to you. There's a law.

EVAN STEINHAUER

- You can go on INAC's website. They usually post it by July 31st every year.

MUSKWA – ERNEST HOULE

- The election case in Saddle Lake, this is the main past election that was squashed. Protesters are seeking new re-election – leaders are saying no election. Protestors are going to sue leaders. If they sue Chief and Council, no doubt they'll win, it will not affect us. There should be notice that it will not affect Whitefish. If Councillor Sparklingeyes and Half can send a letter – that legal fees on this is by Saddle Lake and not Whitefish. To protect our interests.

COUNCILLOR GREG SPARKLINGEYES

- That's one of the reasons, we want to protect ourselves. We're saying that's your business. Chief has been lobbying. I agree – we need to put it in writing. Address to their leadership.

CRAIG MEMNOOK

- Add another notice to Council, to have membership appoint the election committee.

COUNCILLOR GREG SPARKLINGEYES

- It was addressed at a Joint Council Meeting and was agreed to.

CRAIG MEMNOOK

- 9 council is too much for them and we should have one more Councillor. We're 2 to 1. No progress for our community. I have suggestions – we need band meetings to help this council move forward. Since I have been eligible – there was no band meeting called. I have faith hope and belief and prosper for good things to come.

RANDY BULL

- Have Simon on committee. He has the history. Let elders decide.

ROLAND BULL

- We have to consider our young people as well. Elders need to teach us. We need that respect. How are we going to work together?

ELDER RAYMOND SPARKLINGEYES

- We're amalgamated with Saddle Lake, under the Indian Act -- it's been the white man's way.

LORNA LITTLEWOLF

- Indian Act – go with our population.

ROLAND BULL

- For every 100 its one councillor – that's the formula. We don't need lawyers to do this work. We have our knowledge.

ELDER SAM JACKSON

- When you go to meetings, bring back those stories.

SANDRA LUCHT

- Simon has been to leadership – to ask for the respect. Is it okay if I share the information to the community? Respect level for leadership – to share knowledge with community.

COUNCILLOR GREG SPARKLINGEYES

- How do you want to go with this?

LORNA LITTLEWOLF

- What qualification do you need?

EVAN STEINHAEUER

- Review document, come back with recommendations for changes. Or do you want another meeting?

SANDRA LUCHT

- Have another meeting.

EVAN STEINHAEUER

- Give examples of drafts. 19 drafts were done -- customize the election act.

ROLAND BULL

- Are you going to stick with 6.1 with this issue? *Spoke on membership clerk:* It's up to the leadership on managing the membership.

PATTY HOULE

- The Leadership went through the application process with INAC and they protested them out on who is not eligible to vote.

ELDER SIMON SPARKLINGEYES

- Before 1985 my sister became a Frog Lake member. Lot of people don't understand what Bill C-31 is. We will run into problems.

PATTY HOULE

- A Lot of leaders didn't deal with it. We didn't control our own membership.

ROLAND BULL

- Leadership through BCR assigned the membership (Bill C-31). Go through ancestry. That's how it should be.

PATTY HOULE

- The Metis now have the same rights.

ROLAND BULL

- We have to discuss it.

PATTY HOULE

- We went through a lot of hardship.

SANDRA LUCHT

- if you're not a band members, you are out the door.

GERMAINE CARDINAL

- Are we forming a committee or not?

COUNCILLOR GREG SPARKLINGEYES

- Do you want to?

PATTY HOULE

- On separation – where do we want to go on that? What are the pros and cons? We've never been given the opportunity to hear about that. Election, membership – we need to work along together. Once we get direction from leadership, how long do we have to wait? When can we use our new election laws? This term or the next go around? For me I always knew Saddle Lake ran before us. Where are we going to start? I suggest to get people to sit together and go through the drafts. I'm going to take time off for the May 15th meeting. I asked Chief Makokis to come to this meeting. So many transitions. Start negotiating. Do it now. 100 to how many people? Need to start submitting to INAC. Membership – start working on it. Don't let INAC determine our members.

STEVEN WHITFORD

- I just want to say something on the Bill C-31 issue. It's always going to be a fight. I'm Bill C-31 myself. It's a label given to me by the government. My mom married a non-treaty. He was Indian. But not a band member. If I have to fight for that, I will do it. That is my right. I'm glad I'm allowed to speak here. I hope everyone here can work together on election and membership rights.

COUNCILLOR GREG SPARKLINGEYES

- What we're talking about is a group of people that lived here, survival as a group. Tribes of the past, adopted people, brought them to survive. How do we survive in this small chunk of land? How do we survive? How do our next generation survive? Why did we sign Treaty, to survive? What do we believe in? Start with our election code. Have 2 groups to look at membership codes/Election law. We can look at other nations on their laws, codes. We know our membership. Have documents that are driven by the people. Exercise your voice.

SANDRA LUCHT

- We need awareness and education for the people in our community. Does it take that piece of paper to get involved? Why now?

COUNCILLOR GREG SPARKLINGEYES

- Sign up for committee to review the drafts.

PATTY HOULE

- You should inform the people out there that can't make these meetings. Maybe on the website. Questions to them.

JOSEPH CARDINAL

- Post conversation out to the members.

LORNA LITTLEWOLF

- Post it out in the community.

CLOSING PRAYER – ELDER RAYMOND SPARKLINGEYES

Adjournment at 9:15 pm.

This is Exhibit "C" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "C"



INVITATION TO THE
MEMBERSHIP
OF WHITEFISH LAKE FIRST
NATION NO.128

CALL FOR COMMITTEE MEMBERS!!!

**MEMBERSHIP-ELECTION CODE WORKING
GROUP**

This Working Group will work in collaboration with the leadership and members of both Whitefish Lake First Nation and Saddle Lake Cree Nations to update the Tribal Custom Election Law and Membership Code.

At this time the Nation is accepting letters of interest for two (2) committee members. If you are an interested community member dedicated and committed to making a positive difference in our community, please submit your letter of interest no later than May 1, 2018 to the attention of:

Evan Steinbauer, Nation Administrator or Carol Whitefish, Executive Assistant:

Via email at evan.steinbauer@wfl28.ca or carol.whitefish@wfl28.ca

Via Fax @ 780.636.3534

OR in person at the
WFL Band Administration

SELECTION CRITERIA

- Must have some knowledge in election regulations, membership codes, residency, common-law applications, and other related laws, by-laws, etc.
- Must be of good standing in the community
- Must be willing to sign an Oath of Confidentiality
- Reporting will be provide to the Nation's Chief and Council upon request.

This is Exhibit "D" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "D"

Lorna Jackson-Littlewolfe
[REDACTED]
[REDACTED]
[REDACTED]

April 20, 2018

Evan Steinhauer
Nation Administrator
Whitefish Lake Band #128
[REDACTED]

I am writing with great interest in fulfilling the role of the Membership-Election Code Working Group as a member of the Whitefish Lake Band #128.

I have a background in a Bachelor of General Studies in Arts and Science. I have also undergone community and personal development workshops within the community.

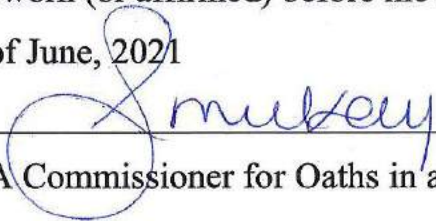
My passion is in helping to develop our community and to bring forward a transparent election code that will govern the People of the Whitefish Lake First Nation #128 for years to come. Since 2005, I have been involved in the election process within our community, I have facilitated and participated in forum meetings on our Nation with the community members, to help inform others and to create transparency in our elections and those who are/were to be elected. I have participated and attended every community session on the Nation. I keep myself informed also by attending the meetings in Saddle Lake in regards to the amendment of the Tribal Custom Election Law and also membership, I have built a relationship with them in the past year.

For further questions or to book a time when we can sit to further discuss this role, I can be reached at
[REDACTED]

In Community Spirit,

Lorna Jackson-Littlewolfe

This is Exhibit "E" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "E"

Lorna Jackson-Littlewolfe
[REDACTED]
[REDACTED]

May 29, 2018

Evan Steinhauer
Nation Administrator
Whitefish Lake Band #128
[REDACTED]

I am writing with great interest in fulfilling the role of the Membership-Election Code Working Group as a member of the Whitefish Lake Band #128.

I have a background in a Bachelor of General Studies in Arts and Science. I have undergone community and personal development workshops within the community. I also have educated myself in the election regulations, membership codes, common-law applications, residency and any other by-laws within our Nation by obtaining the documents that are open to our Nation Peoples.

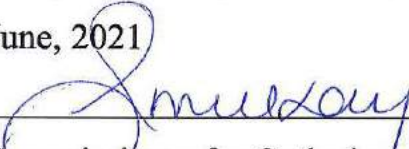
My passion is in helping to develop our community and to bring forward a transparent election code that will govern the People of the Whitefish Lake First Nation #128 for years to come. Since 2005, I have been involved in the election process within our community, I have facilitated and participated in forum meetings on our Nation with the community members, to help inform others and to create transparency in our elections and those who are/were to be elected. I have participated and attended every community session on the Nation. I keep myself informed also by attending the meetings in Saddle Lake in regards to the amendment of the Tribal Custom Election Law and also membership, I have built a relationship with them in the past year.

[REDACTED] questions or to book a time when we can sit to further discuss this role, I can be reached at

In Community Spirit,

Lorna Jackson-Littlewolfe

This is Exhibit "F" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "F"



Whitefish Lake
FIRST NATION #128

June 13, 2018

Lorna Jackson-Littlewolfe
[REDACTED]

Dear Mrs. Littlewolfe:

RE: WHITEFISH LAKE – SADDLE LAKE MEMBERSHIP/ELECTION CODE WORKING GROUP

We are writing to advise you that the Chief and Council of the Whitefish Lake First Nation at a duly convened Council Meeting held May 23, 2018 have appointed you to the Whitefish Lake – Saddle Lake Membership/Election Code Working Group. This appointment takes effect immediately.

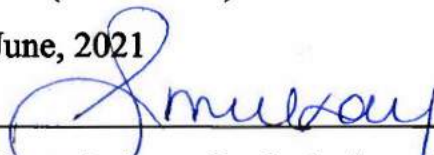
A Working Group Meeting is scheduled for Monday May 18th, 2018 @ 10:00 AM at the Peyasu Building at Saddle Lake Cree Nation. A brief orientation will be provided to you on your roles and responsibilities to this Working Group.

Should you require further clarification or information, please contact our office at [REDACTED] 7000.

Regards,

Evan Steinhauer
Nation Administrator

This is Exhibit "G" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "G"



Whitefish Lake FIRST NATION #128

June 13, 2018

Pasty Houle
[REDACTED]
[REDACTED]
[REDACTED]

Dear Patsy:

RE: WHITEFISH LAKE – SADDLE LAKE MEMBERSHIP/ELECTION CODE WORKING GROUP

We are writing to advise you that the Chief and Council of the Whitefish Lake First Nation at a duly convened Council Meeting held May 22, 2018 have appointed you to the Whitefish Lake – Saddle Lake Membership/Election Code Working Group. This appointment takes effect immediately.

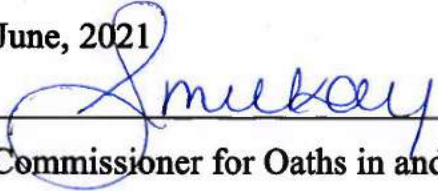
A Working Group Meeting is scheduled for Monday May 18th, 2018 @ 10:00 AM at the Peyasu Building at Saddle Lake Cree Nation. A brief orientation will be provided to you on your roles and responsibilities to this Working Group.

Should you require further clarification or information, please contact our office at [REDACTED]
[REDACTED]

Regards,

Evan Steinhauer
Nation Administrator

This is Exhibit "H" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "H"

Saddle Lake/Whitefish Lake**Election Law Survey**

The Election Law Committee requests your input with potential changes to the current election law dated 1955. Obtaining feedback from Saddle Lake and Whitefish Lake members is vital in this review process. Let your voice be heard. We would appreciate your taking the time to complete the following survey. Your responses are voluntary and will be confidential. Responses will not be identified by individual. All responses will be compiled together and analyzed as a group.

ELECTION LAW

1. Do you support the voting age to be lowered from 21 to 18 yrs old?
Yes
No
2. Should the minimum age for candidacy (chief or council) be 21?
Yes
No
3. Do you support removing the marriage requirement to run for chief or council?
Yes
No
4. Should candidates be allowed to run for chief or council if they reside outside the nation, but within a 30km radius?
Yes
No
5. Should we increase the term of office to four (4) years from three (3) years?
Yes
No
6. Should a candidate running for chief have at least served one (1) term in office?
Yes
No

FOR SADDLE LAKE MEMBERS ONLY

7. Should we decrease the council from 9 to 7?
Yes
No

FOR WHITEFISH LAKE MEMBERS ONLY

8. Should we increase the council from four (4) to five (5)?
Yes
No

9. Do you support the use of the electronic voting system for our next election in November 2020?
 Yes
 No

To assist with offsetting election costs that can exceed \$40,000 per election. We are seeking your input with the following suggestions. Furthermore, we wish to encourage serious candidates running for leadership.

NOMINATIONS

10. As a band member, do you support that all candidates not be eligible to run for chief or council if they are taking legal action and/or any payouts received against the band or any of its subsidiaries?
 Yes
 No

11. Do you support that all candidates running for chief or council be required to pay a fee?
 Yes
 No
 If Yes, please circle one of the following for each candidate:

Councillor	\$250	\$500	\$1000	\$1500	(payable on day of nomination)
Chief	\$250	\$500	\$1000	\$1500	(payable prior to election of chief)

12. Should nominators and seconders be required to pay a fee as well?
 Yes
 No

If Yes, please circle one for each of the following:

Nominator	\$25 or \$50	(payable on day of nomination)
Secunder	\$25 or \$50	(payable on day of nomination)

13. On nomination day, should members be limited to nominating or seconding only one candidate?
 Yes
 No
14. Do you support drug testing of all candidates before and randomly during their term? To be added on ballot, results must be provided by end of next day of nominations
 Yes
 No

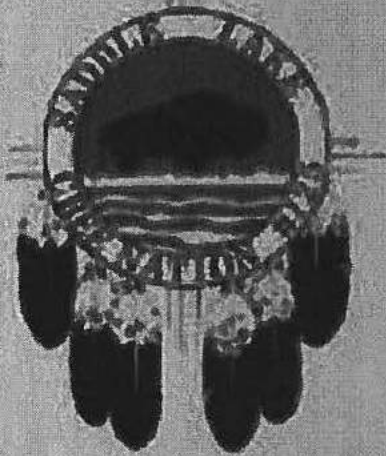
ADDITIONAL COMMENTS/RECOMMENDATIONS/SUGGESTIONS?

This is Exhibit "I" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

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Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "I"



**Whitefish Lake
FIRST NATION #128**

**TO ALL SADDLE LAKE AND
WHITEFISH LAKE BAND MEMBERS**

**WHO RESIDE IN AND SURROUNDING AREA OF EDMONTON, ALBERTA.
WE WILL BE DISTRIBUTING SURVEYS ON MEMBERSHIP AND ELECTION
CODES AT THE BOYLE STREET BOARDROOM. WE WOULD LIKE TO
INVITE ALL TO COME SEE US AND GIVE YOUR INPUT ON WHAT
HAPPENS TO OUR NATION. WE NEED TO HEAR FROM YOU!**

WHERE: BOYLE STREET COMMUNITY CENTER
10116 - 105 AVENUE, EDMONTON, AB

WHEN: SEPTEMBER 14, 2018

TIME: 9 AM TO 12 PM, 1 PM - 3 PM

This is Exhibit "J" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


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SIMONE R. MULKAY
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Notary Public for Alberta
Appointment does not Expire

Exhibit "J"



49
Whitefish Lake
FIRST NATION #128

July 10, 2018

Lorna Jackson-Littlewolfe
[REDACTED]

Dear Mrs. Littlewolfe:

RE: WHITEFISH LAKE – SADDLE LAKE MEMBERSHIP/ELECTION CODE WORKING GROUP

We are writing to advise you that your appointment to the Membership-Election Code Working Group has not been validated by a Council Motion. We are directing that all work activities of the Committee be suspended until official appointments are made.

We will be re-posting the call out for members and you are most welcome to apply. We apologize for any confusion or misunderstandings.

Should you require further clarification or information, please contact our office at [REDACTED]
[REDACTED]

Regards,

Chief Tom Houle

Whitefish Lake First Nation #128

This is Exhibit "K" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
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of June, 2021


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Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "K"

Whitefish Lake Election/Membership Codes Working Group

July 16, 2018

Report

This report is a timeline of events that have taken place in regards to the Whitefish Lake Election/Membership Codes Working Group.

This report also includes a poster that were posted within the community, letters of interest, letters of appointments, and letters of termination also a poster reopening of the positions.

April 2018;

The Whitefish Lake Band #128 invited all community members to submit letters of interest to sit in the Working Group. Posters had a deadline that letters of interest were to be submitted no later than May 1, 2018.

May 22, 2018;

The Whitefish Lake Chief and Council had a joint council meeting in Saddle Lake. One of the discussions was the Working Group.

June 13, 2018;

Letters of appointment were made out to those who submitted letters of interest to sit in the working group. Letters of interest were given out between, June 13-15, 2018. Included in the letters was the start date of June 18, 2018 which was our first meeting with Saddle Lake Election/Membership Working Group.

June 18, 2018;

The first meeting with Saddle Lake Working Group.

July 3, 2018;

The second meeting with Saddle Lake Working Group.

July 6, 2018;

Distribution of surveys to the members of Whitefish Lake Band #128.

July 10, 2018;

Evan Steinhauer calls me (Lorna Jackson-Littlewolfe) into his office to inform me that Chief Tom Houle, Council Member Stan Lorne Houle, Administrator Evan Steinhauer and Executive

Secretary Carol Whitfish had meeting in chambers. In this meeting, they discussed the Working Group and had our group dismantled.

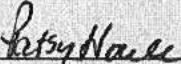



July 11, 2018;

We received our letters of termination.

Working Group Members:

Bull, Carl
Bull, Sam Jr.
Houle, Patsy
Jackson-Littlewolfe, Lorna

Signatures of Working Group members:

This is Exhibit "L" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "L"

Lorna Jackson-Littlewolfe
[REDACTED]
[REDACTED]
[REDACTED]

July 11, 2018

Evan Steinhauer
Nation Administrator
Whitefish Lake Band #128
[REDACTED]

I am writing with great interest in fulfilling the role of the Membership-Election Code Working Group as a member of the Whitefish Lake Band #128.

I have a background in a Bachelor of General Studies in Arts and Science. I have undergone community and personal development workshops within the community. I also have educated myself in the election regulations, membership codes, common-law applications, residency and any other by-laws within our Nation by obtaining the documents that are open to our Nation Peoples.

My passion is in helping to develop our community and to bring forward a transparent election code that will govern the People of the Whitefish Lake First Nation #128 for years to come. Since 2005, I have been involved in the election process within our community, I have facilitated and participated in forum meetings on our Nation with the community members, to help inform others and to create transparency in our elections and those who are/were to be elected. I have participated and attended every community session on the Nation. I keep myself informed also by attending the meetings in Saddle Lake in regards to the amendment of the Tribal Custom Election Law and also membership, I have built a relationship with them in the past year.

For further questions or to book a time when we can sit to further discuss this role, I can be reached at
[REDACTED]

In Community Spirit,

Lorna Jackson-Littlewolfe

This is Exhibit "M" referred to
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Notary Public for Alberta
Appointment does not Expire

Exhibit "M"



**INVITATION TO THE
MEMBERSHIP
OF WHITEFISH LAKE FIRST
NATION NO.128
CALL FOR COMMITTEE MEMBERS!!!
MEMBERSHIP-ELECTION CODE WORKING
GROUP**

This Working Group will work in collaboration with the leadership and members of both Whitefish Lake First Nation and Saddle Lake Cree Nations to update the Tribal Custom Election Law and Membership Code.

At this time the Nation is accepting letters of interest for committee members. If you are an interested community member dedicated and committed to making a positive difference in our community, please submit your letter of interest no later than August 10, 2016 to the attention of:

Evan Steinhauer, Nation Administrator or Carol Whitefish, Executive Assistant
Via email at evan.steinhauer@wfl128.ca or carol.whitefish@wfl128.ca
Via Fax @ 780.636.3934
OR in person at the
WFL Band Administration

SELECTION CRITERIA

- Must have some knowledge in election regulations, membership codes, regulatory, custom-law applications, and other related laws, by-laws, etc.
- Must be of good standing in the community
- Must be willing to serve on Oath of Confidentiality
- Reporting will be provided to the Nation's Chief and Council upon request

This is Exhibit "N" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


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SIMONE R. MULKAY
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Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "N"

WHITEFISH LAKE FIRST NATION #128

INVITATION TO THE MEMBERSHIP OF WHITEFISH LAKE FIRST NATION NO.128

CALL FOR COMMITTEE MEMBERS!!! MEMBERSHIP-ELECTION CODE WORKING GROUP

This Working Group will work in collaboration with the leadership and members of both Whitefish Lake First Nation and Saddle Lake Cree Nations to update the Tribal Custom Election Law and Membership Code.

The Working Group will consist of family clan appointments up to 8 members. Please indicate the clan you will be representing in your letter of interest.

The call for members will remain open until all 8 vacancies have been filled.

If you are an interested community member dedicated and committed to making a positive difference in our community, please submit your letter of interest to the attention of:

Evan Steinhauer, Nation Administrator or Carol Whitefish, Executive Assistant

Via email at evan.steinhauer@wfl128.ca cwhitefish@wfl128.ca

Via Fax @ 780.636.3534

OR in person at the
WFL Band Administration

SELECTION CRITERIA

- Must have some knowledge in election regulations, membership codes, residency, common-law applications, and other related laws, by-laws, etc.
- Must be of good standing in the community
- Must be willing to sign an Oath of Confidentiality
- Reporting will be provided to the Nation's Chief and Council upon request.

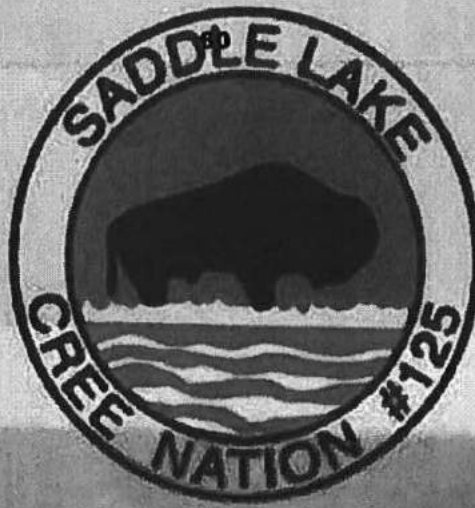
POSTING WILL REMAIN UNTIL 8 POSITIONS ARE FILLED.

This is Exhibit "O" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
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Barrister & Solicitor
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Notary Public for Alberta
Appointment does not Expire

Exhibit "O"



COMMUNITY GATHERING & BAND MEETING

Tuesday, September 25, 2018

at the Ayiwakes Hall

9:00 A.M

PIPE CEREMONY 7:30 A.M

BREAKFAST 8:30 - 9:00 A.M

LUNCH 12:00 - 1:00 P.M

SUPPER 5:00 - 6:00 P.M


AGENDA

- 1. Indian Act**
- 2. Treaty Based Funding**
- 3. Cows and Plows**
- 4. Membership**
- 5. Election Update**

**OPEN TO SADDLE LAKE AND GOODFISH LAKE BAND MEMBERS
ONLY**

**WASHER AND DRYER DOOR PRIZE
SPONSORED BY SOCIAL SERVICES**

MUST BE IN ATTENDANCE TO CLAIM YOUR PRIZE


CHIEF EDDY MAKOKIS

This is Exhibit "P" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
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Notary Public for Alberta
Appointment does not Expire

Exhibit "P"

December 20, 2018

Briefing Note: SLCN Election Law/Code Development

Prepared by: Norma C. Large, LLB, Policy Advisor – SLCN

Background:

The development of the SLCN Election Code/Law is part of a long-standing effort dating back to the 1980's to ensure that the election of leaders within the Nation is done in a manner that reflects our ways and customs. Created originally in 1955 as an original 'custom code,' the election regulations, as they are referred to, was updated and ratified in 1965 and are the rules for nation elections ever since.

After the election in 2016, a group of four band members took the Nation to Federal Court. The Federal Court ruled that the appeals process of the election was procedurally unfair therefore there has been an expedited need to update/amend the code. The court ordered that the SLCN must re-determine the four-band members eligibility based on the old code in a new process. The redetermination panel reported that only one of the four might have been eligible for the 2016 election code, Eric Shirt. SLCN took the panel decision and moved activity to the second objective, which is that any new election must occur with a new or amended code.

After several court dates wherein SLCN had to defend itself against claims of contempt of court, a proposal was successful. INAC Alberta Region supported the membership and election code development process and meetings/activities have taken place and continue to do so. Over the past two years, various activities have occurred to achieve a new code. The additional expectation is that SLCN must ensure that as many people from the Nation know about the work and have an opportunity to provide input. This note provides an update as to the status of the election code development.

Activities:

- Proposal written in July 2017 – funding delivered in fall 2017; hired a coordinator to support the work
- Held meetings in Saddle Lake, Whitefish Lake and Edmonton – includes online presence of the saddlelakecreenation.ca website
- Handed out 3000 surveys (election and membership respectively)
- Additional survey will be distributed at the Dec 21, 2018 community gathering
- Meetings with Elders Advisory Committee (ongoing) with writing underway
- Additional meetings to be held in SLCN, WLFN and Edmonton respectively

onihcikiskwapowin - SADDLE LAKE TRIBAL CUSTOMSELECTIONS REGULATIONS – DECEMBER 2018Amendment Recommendation 1 re: Common Law and Residency

SECTION (1):Eligibility for Nomination:

- (A) No person who is a civil servant shall be eligible to be nominated.
- (B) No person can be nominated for an election if absent. ~~UNLESS HE/SHE HAS SIGNIFIED IN WRITING HIS/HER ACCEPTANCE OF THE NOMINATION.~~
- (C) Any band member ~~in a committed relationship~~ LIVING IN A COMMON LAW MARRIAGE shall be eligible for nomination;

The elections nominations oversight panel will establish the veracity of the claims by the nominator for a person's reliability, stability and capacity to support the collective interests of the nation's peoples.

- Who chooses the panel?
 - On what basis are they making their decision?
 - How long does it take? 3 days?
 - Should the panel consist of band members or members from neighboring communities? Max 3 people.
- (D) At the nomination meeting, a mover and seconder is required to provide supporting recommendations for their nomination/nominee. The mover and seconder must answer why they are choosing to nominate, speak on his/her behalf and how you see that persons capabilities as a potential leader.
- (E) The following checklist must be submitted to the Chief Electoral Officer one week prior to the nomination meeting;
- RCMP certified criminal record check
 - Nomination fee for nominator and nominee
 - Platform/resume
 - All residency proof (utility bills)
- (F) Notice of nominations will occur 3 months in advance of the nomination meeting.*
- (G) No person who maintains his/her home away from the reserve shall be eligible for nomination. Those eligible members who live within a 25 miles (40 kilometres) radius from

the Saddle Lake Cree Nation must provide proof of physical residence (legal land description/utility bills). (*Cross reference Onion Lake, Tsuu Tsina)

- (H) All eligible candidates must have been resident in Saddle Lake Cree Nation for six months prior to nominations
- (I) If a person's main place of residence is within Saddle Lake Cree Nation and works away from the reserve, he/she is eligible for nomination ~~NO PERSON WHO MAINTAINS HIS/HER HOME OFF THE RESERVE SHALL BE ELIGIBLE FOR NOMINATION. (F HE/SHE HAS HIS/HER MAIN PLACE OF RESIDENCE OF HIS/HER FAMILY ON THE RESERVE AND WORKS OFF THE RESERVE, HE/SHE SHALL BECOME ELIGIBLE. HOWEVER, HE/SHE IS ALLOWED TO MISS ONLY ONE REGULAR MEETING, EXCEPT FOR ILLNESS.)~~
- (J) *No person convicted under the Criminal Code of Canada shall be eligible for nomination.
- (K) No person under the age of 21, as of the day of nomination, shall be eligible to nominate or be nominated.
- (L) No nomination is valid without a seconder.
- (M) Intoxication of any substance (Alcohol and or drugs) will not be tolerated at the time of nominations, which includes nominator/seconder/nominee.

SECTION 2:

VOTING REGULATIONS:

- (A) ANY BAND MEMBER, OVER THE AGE OF 21 YEARS, ON THE DAY OF ELECTION, WHETHER LIVING ON THE RESERVE OR NOT, SHALL BE ELIGIBLE TO CAST A SINGLE VOTE; ~~WITH THE EXCEPTION OF *RED TICKET INDIANS.~~
- ~~(B) RESIDENTS OF THE GOODFISH LAKE RESERVE SHALL NOT BE ALLOWED TO VOTE FOR A CHIEF OR COUNCILLOR ON THE SADDLE LAKE RESERVE.~~
- ~~(C) RESIDENTS OF SADDLE LAKE CREE RESERVE SHALL NOT BE ALLOWED TO VOTE FOR A CHIEF OR COUNCILLOR ON THE GOODFISH LAKE RESERVE.~~
- ~~(D) BAND MEMBERS OF WHITEFISH LAKE AND SADDLE LAKE WILL BE ALLOWED TO VOTE FOR A CHIEF OR COUNCILLOR ON THE RESERVE IN WHICH THEY RESIDE.~~

SECTION 3:

ELECTION PROCEDURAL REGULATIONS:

- (A) CHIEF AND COUNCILLOR ARE ELECTED FOR A THREE-YEAR TERM.
- (B) THERE SHALL BE NINE COUNCILLORS FOR THE SADDLE LAKE RESERVE.
- (C) THERE SHALL BE FOUR COUNCILLORS FOR THE GOODFISH LAKE RESERVE.
- (D) THE ELECTION OF THE CHIEF SHALL BE HELD PURSUANT TO THE ELECTION OF THE COUNCILLORS AND THE CHIEF SHALL COME FROM AMONG THE ELECTED COUNCILLORS.
- (E) THERE SHALL BE AN INTERPRETER* (ONE FOR THE SADDLE LAKE RESERVE AND ONE FOR THE GOODFISH LAKE RESERVE) APPOINTED AT A BAND MEETING FOR BOTH THE NOMINATION AND ELECTION DAYS.
- (F) A COUNCILLOR OR CHIEF GUILTY OF IMPROPER CONDUCT WHO HAS HAD A PETITION REQUESTING HIS/HER REMOVAL, SIGNED BY 60% OF THE RESIDENT MEMBERS OF THE RESERVE, SHALL BE SO DISMISSED BY THE ENCUMBENT ELECTORAL OFFICER AND A BI-ELECTION SHALL BE CALLED TO FILL THE VACANCY.
- (G) THE DISTRICT SUPERVISOR IS THE PERMANENT ELECTORAL OFFICER AND IT SHALL BE HIS RESPONSIBILITY FOR CALLING OF ELECTIONS AT THE END OF EACH THREE-YEAR TERM. HIS METHOD OF CONDUCTING NOMINATION MEETINGS (EXCEPT FOR THE CLOSING OF IT), THE SECRET BALLOT, THE OPENING, CLOSING, AND COUNTING OF THE BALLOTS SHALL BE THE SAME AS SET FORTH IN THE BAND ELECTION ACT, SECTION 73, OF THE INDIAN ACT, AS LONG AS THEY DO NOT CONFLICT WITH ANY REGULATIONS, RULES OR ORDINANCES PASSED BY THE BAND. THE ELECTORAL OFFICER IS AUTHORIZED TO APPOINT POLL CLERKS, AND AUTHORIZED TO PAY THE COST OF THE ELECTION FROM BAND FUNDS AFTER THE COUNT HAS BEEN SUBMITTED TO COUNCIL AND APPROVED.

*INTERPRETER: SHALL BE A PERSON WHO CAN EFFECTIVELY INTERPRET FROM THE CREE LANGUAGE INTO THE ENGLISH LANGUAGE AND FROM THE ENGLISH LANGUAGE INTO THE CREE LANGUAGE. THIS PERSON SHALL NOT BE A MEMBER OF THE SADDLE LAKE BAND. HE/SHE BE PAID AT A RATE SET BY THE BAND COUNCIL.

SPECIAL NOMINATION MEETING PROCEDURES

NO PERSON OTHER THAN AN ELECTOR WHO RESIDES IN A SECTION MAY BE NOMINATED FOR THE OFFICE OF COUNCILLOR TO REPRESENT THAT SECTION ON THE COUNCIL.

*INDIAN ACT, SECTION 75, SUB, "1".

NO PERSON MAY BE A CANDIDATE FOR ELECTION AS CHIEF OR COUNCILLOR UNLESS HIS NAME IS SET IN NOMINATION AND SECONDED BY PERSONS WHO ARE THEMSELVES ELIGIBLE TO BE NOMINATED.

*INDIAN ACT SECTION 75, SUB "2", R.S., C 149, S 74.

SADDLE LAKE TRIBAL CUSTOMS REVISED: Community Feedback December 2018

ELIGIBILITY FOR NOMINATION: Please read the statement and circle the best response on a scale of Strongly Agree to Strongly Disagree.

No person who is a civil servant shall be eligible to be nominated.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
No person can be nominated for an election if absent.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
Any person in a committed relationship shall be eligible for nomination. The elections elders panel will establish the veracity of the claims by the nominator for a person's reliability, stability and capacity to support the collective interests of the nation's peoples.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
All eligible candidates must have been resident in Saddle Lake Cree Nation for six (6) months prior to nominations	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
If a person's main place of residence is within Saddle Lake Cree Nation and works away from the reserve, he/she is eligible for nomination	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
No person convicted under the Criminal Code of Canada shall be eligible for nomination.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
No person under the age of twenty one (21), as of the day of nomination, shall be eligible to nominate or be	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree

nominated.	Agree			Disagree	
A non-refundable deposit of five hundred dollars (\$50.00 - \$2500.00) must be posted by all candidates for the position of Chief.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
A non-refundable deposit of five hundred dollars (\$50.00 - \$2500.00) must be posted by all candidates for the position of Councillor.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
A non-refundable deposit of fifty dollars (\$50.00) must be posted by all nominators and seconders for candidates for the position of Chief and/or Councillor.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
Nominators cannot nominate more than two (2) candidates for Councillor.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree
Intoxication of any substance (Alcohol and or drugs) will not be tolerated at the time of nominations, which includes nominator/seconders/nominee.	<input type="checkbox"/> Strongly Agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither	<input type="checkbox"/> Disagree	<input type="checkbox"/> Strongly Disagree

This is Exhibit "Q" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "Q"

onihcikiskwapowin – TRIBAL CUSTOMS ELECTIONS CODE

***changes to be incorporated into the last draft code per Motion**

SECTION (1):**Eligibility for Nomination:**

- (A) No person can be nominated for an election if absent.
- (B) Any band member shall be eligible for nomination;
- The elections eligibility panel¹ will establish the veracity² of the claims by the nominator for a person's reliability, stability and capacity to support the collective interests of the *onihcikiskwapowin* peoples.
- (C) At the nomination meeting, a mover and seconder is required to provide supporting recommendations for their nomination/nominee. The mover and seconder must answer why they are choosing to nominate, speak on his/her behalf indicating the individual's capabilities as a potential leader.
- (D) The following checklist must be submitted to the Chief Electoral Officer one week prior to the nomination meeting;
- RCMP certified criminal record check
 - Nomination fee for nominator and nominee
 - Resume and platform³
 - All residency proof⁴
- (E) Notice of nominations will occur three (3) months in advance of the nomination meeting.⁵
- (F) No person who maintains his/her home away from the reserve shall be eligible for nomination. Those eligible members who live within a 25 mile (40 kilometres) radius from the Saddle Lake Cree Nation must provide proof of physical residence.⁶
- (G) All eligible candidates must have been resident in Saddle Lake Cree Nation for six (6) months prior to nominations.

¹ The elections eligibility panel terms of reference are attached

² Oxford Dictionary defines veracity as: conforming to facts and accuracy

³ A platform is a formal set of principle goals detailing the candidates plans and objectives in seeking the support of *onihcikiskwapowin* peoples as a member of council

⁴ I.e. Utility Bills

⁵ Application in Election year 2019 – to be determined

⁶ I.e. Legal land description/utility bills

- (H) If a person's main place of residence is within Saddle Lake Cree Nation and works away from the reserve, he/she is eligible for nomination.
- (I) No person convicted under the Criminal Code of Canada shall be eligible for nomination.⁷
- (J) No person under the age of 21, as of the day of nomination, shall be eligible to nominate or be nominated.⁸
- (K) No nomination is valid without a seconder.
- (L) Intoxication of any substance (alcohol and or drugs, including recreational cannabis) will not be tolerated at the time of nominations, which includes nominator/seconder/nominee.

SECTION (2):

Voting Regulations:

- (A) Any band member, over the age of 21 years, on the day of the election, whether living on the reserve or not, shall be eligible to cast a single vote.
- (B) Band members of Saddle Lake Cree Nation will be allowed to vote for a Chief or Councillor on the reserve in which they reside.

SECTION (3):

Election Procedural Regulations:

- (A) Chief and Councillor are elected for a three-year (3) term.
- (B) There shall be nine (9) councillors for the Saddle Lake Cree Nation #125 (SLCN).
- (C) There shall be four (4) councillors for the Whitefish Lake Reserve #128x (WFL).
- (D) The election of the Chief shall be held pursuant to the election of the councillors and the Chief shall come from among the elected councillors.
- (E) There shall be an interpreter⁹ (one for the SLCN and one for WFL) appointed at the band meeting for both the nomination and election days.
- (F) A Chief or Councillor guilty of improper conduct who has had a petition requesting his/her removal, signed by 60% of the resident members of the reserve, shall be so dismissed by the incumbent electoral officer and a by-election shall be called to fill the vacancy.
- (G) The district supervisor is the permanent electoral officer and shall be responsible for calling an election at the end of each three-year (3) term. The method of conducting nomination meetings (except for the closing of it), the secret ballot, the ballot, the opening, closing, and counting of the ballots shall be the same as set forth in the Band Election Act, section 73, of

⁷ Criminal Code reporting will be an ongoing matter in the Election Reform process

⁸ Age of voting and nomination eligibility will be an ongoing matter in the Election Reform process

⁹ Interpreter: shall be a person who can effectively interpret from the Cree language into the English language and from the English language into the Cree language. This person shall not be a member of the Saddle Lake Band. He/she is paid at a rate set by the band council.

the Indian Act, as long as they do not conflict with any regulations, rules or ordinances passed by the band. The electoral officer is authorized to appoint poll clerks, and authorized to pay the cost of the election from band funds after the count has been submitted to council and approved.

Special Nomination Meeting Procedures

No person other than an elector who resides in a section may be nominated for the office of Councillor to represent that section on the Council

***INDIAN ACT, SECTION 75, SUB, "1"**

NO person may be a candidate for election as Chief or Councillor unless their name is set in nomination and seconded by persons who are themselves eligible to be nominated.

***INDIAN ACT SECTION 75, SUB "2", R.S., C 149, S 74.**

This is Exhibit "R" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "R"

PREAMBLE

The *onihcikiskwapowin* – Tribal Custom Election Code and the Regulations are enacted according to the customs, traditions and beliefs of the peoples of Saddle Lake Cree Nation (SLCN):

INTERPRETATION**1. Title**

- 1.1. The title of this document is the *onihcikiskwapowin - Saddle Lake Cree Nation Appeals Procedure Regulation*. (“*Appeals Procedure Regulation*”)

2. Enforcement

- 2.1. The *Appeals Procedure Regulation* comes into force upon approval by Chief and Council pursuant to the *SLCN Tribal Custom Election Code* (“*Code*”).

3. Interpretation

- 3.1. The definitions used in the *Code* shall have the same meaning in the *Appeals Procedure Regulation*.
- 3.2. If there is any inconsistency between the *Code* and the *Appeals Procedure Regulation*, the *Code* shall prevail over any such inconsistency.
- 3.3. If there is any inconsistency between the *Code* and the *Appeals Procedure Regulation* with any other enactment of the Saddle Lake Cree Nation, the *Appeals Procedure Regulation* shall prevail to the extent of such inconsistency.

4. Definitions

- 4.1. The following words and phrases have the following meanings:

- (a) “*Code*” means the *onihcikiskwapowin – Saddle Lake Cree Nation Tribal Custom Election Code*;
- (b) “*Appeal*” means an appeal filed by a Candidate in respect to any Election;

onihcikiskwapowin – Appeals Procedure Regulation

- (c) “Appeals Committee” means those individuals appointed to form an independent board who will hear Appeals filed pursuant to the *Code* and the *Regulations*;
- (d) “*Appeals Procedure Regulation*” means the *Saddle Lake Cree Nation Appeals Procedure Regulation*;
- (e) “Appellant” means a Candidate who submits an Appeal in accordance with the *Appeals Regulation*;
- (f) “Council” means the Chief and Councilor’s of the Saddle Lake Cree Nation elected in accordance with this *Code*;
- (g) “Respondent” means an individual who may be required to respond to an Appeal filed in accordance with the *Appeals Procedure Regulation* and shall include the Chief Electoral Officer, and as required, the Candidates at the Election that the Appeal has been filed in relation thereto.

APPEALS COMMITTEE**5. Composition of Appeals Committee**

- 5.1. For the purposes of hearing an Appeal of any Election or By-Election, an Appeals Committee will be established.
- 5.2. At least sixty (60) days prior to the Election, the Tribal Administrator in consultation with the Chief and Council and Elder’s Advisory Committee shall prepare a list of three (3) individuals who may be chosen as candidates for the Appeals Committee.
- 5.3. From this list, the Tribal Administrator shall appoint three (3) individuals to be on the Appeals Committee and such appointments will be affirmed by the Chief and Council by motion.
- 5.4. There will be three (3) official members of the Committee: one (1) Elder, one (1) Adult, one (1) Indigenous Lawyer (practicing or non-practicing and who is not a band member) and a youth observer (20 years or less)
- 5.5. To be eligible for appointment to the Appeals Committee as an Elder or an Adult and youth individuals shall:
 - (a) Be a member of the Saddle Lake Cree Nation;

onlhckiskwapowin – Appeals Procedure Regulation

- (b) Not be a Candidate for office;
 - (c) Not be involved in the campaign or promotion of any Candidate in the Election;
 - (d) Not be immediately related (spouse, daughter, son, sister, brother, mother, father, grandparent) to any candidate in the Election and will not be currently employed by the Nation;
 - (e) Not have been convicted of an indictable offence within the past ten (10) years;
 - (f) Not be convicted of a corrupt practice in connection with an election including the acceptance of a bribe, dishonesty or willful misconduct;
 - (g) Have knowledge about procedures in Elections; and
 - (h) Understand the principles of natural justice.
- 5.6. The term of office of the Appeals Committee shall be from its appointment and terminating at the end of the Appeals period or until an Election Appeal is decided, whichever is later. The individuals appointed to the Appeals Committee may be reappointed for future Elections.
- 5.7. The Appeals Committee is responsible to conduct, hear, and determine in accordance with the *Code* and its *Regulations* any Appeal from an Election.

APPEALS**6. Timing**

- 6.1. An appeal must be made within seven (7) days from the date on which the Election was held, submitted to the Appeals Committee.

7. Grounds for Appeal

- 7.1. An Appeal submitted must sufficiently outline one or more of the following:
- (a) That the person declared elected was not qualified to be a Candidate;

onihcikiskwapowin – Appeals Procedure Regulation

- (b) That there was a violation of the *Code* and its *Regulations* in the conduct of the Election that might have materially affected the result of the Election; or
- (c) That there was corrupt or fraudulent practice in relation to the Election.

8. Submission

8.1. An Appeal submitted to the Appeals Committee must:

- (a) Be in writing and set out in an affidavit sworn before a notary public or duly appointed commissioner for taking oaths the facts substantiating the grounds for the Appeal accompanied by any supporting documentation;
- (b) Be served either personally or by registered mail to the Appeals Committee at Box 100, Saddle Lake Cree Nation, T0A 3T0;
- (c) Contain the signature of the person initiating the Appeal; and
- (d) Be accompanied by a non-refundable fee in the amount of fifteen hundred (\$1500.00) dollars.

9. Procedure

9.1. Upon receipt of an Appeal, the Appeals Committee shall:

- (a) In the case where the Appeal is submitted in accordance with the *Code* and its *Regulations*, forward a copy together with supporting documents by registered mail to the Respondents from the Election; or
- (b) In the case where the Appeal is not submitted in accordance with the *Code* and its *Regulations*, inform the Candidate in writing that the Appeal will not receive further consideration.

10. Investigation

- 10.1. The Appeals Committee may, if the material that has been filed is not adequate for deciding the validity of the Election complained of, conduct such further investigation into the matter (s) as the Appeals Committee deems necessary.
- 10.2. The Appeals Committee will ensure the information gathered during any additional investigation is made available to the appellant within the review period.

11. Conduct of Review

- 11.1. The Appeals Committee shall conduct a review of the Appeal within seven (7) days of receipt of the Appeal to determine whether there will be an oral hearing to gather additional evidence.
- 11.2. The Appeals Committee must give to the parties to review:
- (a) A copy of the decision of the Appeals Committee regarding whether or not an oral hearing will be held or if the review will be conducted on written submissions only;
 - (b) If an oral hearing is to be held, not less than ten (10) days' notice of the time, date and location of the oral hearing; and
 - (c) If no oral hearing is held, not less than ten (10) days' notice of the date by which any Candidate or the Chief Electoral Officer may forward by registered mail a written response to the Appeal allegations, together with any supporting documentation.
- 11.3. The Appeals Committee shall provide notice of the hearing to the Candidate and the Respondents and give each party full opportunity to present his or her evidence and submissions at the hearing.
- 11.4. In their deliberations, the Appeals Committee will:
- (a) Examine the record including all written submission as part of the eligibility process;
 - (b) Engage and question the Appellant, the Respondents and any witnesses as deemed necessary;
 - (c) Cause the appearance of any witnesses of the Candidate or the Respondents or any witnesses who may, in the Appeals Committee's opinion, assist in the deciding the Appeal;
 - (d) Conduct the proceedings in any way in which the Appeals Committee deems appropriate in order to decide the Appeal.

12. Decision

12.1. The Appeals Committee shall render a decision on the appeal within fourteen (14) days of the hearing or within fourteen (14) days of the deadline for receipt of written submissions.

12.2. After a review of all of the evidence received, the Appeals Committee shall rule:

(a) That the evidence presented was not sufficiently substantive to determine that:

- i. A violation of the *Code* or the *Regulations* had taken place that might have affected the results of the Election;
- ii. That the person declared elected was not qualified to be a Candidate; or
- iii. There was a corrupt practice or fraudulent practice in relation to the Election that might have affected its results.

And dismiss the Appeal; or

(b) That all evidence and information gathered allows for the reasonable conclusion that:

- i. A violation of the *Code* or the *Regulations* had taken place that might have affected the results of the Election;
- ii. That the person declared elected was not qualified to be a Candidate; or
- iii. There was a corrupt practice or fraudulent practice in relation to the Election that might have affected its results;

And uphold the Appeal.

12.3 If the Appeal Commission upholds the appeal then the Committee may decide the following remedies:

1. Set aside the Election of one or more members of Council.
2. Order that the candidate(s) with the next highest votes be duly elected.

onihcikiskwapowin – Appeals Procedure Regulation

12.3. The decision of the Appeals Committee made pursuant to the Appeals Procedure Regulations shall be:

- (a) Published in the community's newspaper or newsletter, official website, Facebook site (etc.); and
- (b) Posted openly in public spaces (SLCN buildings) on the Reserve.

12.4. The decision of the Appeals Committee is final and not subject to appeal, in accordance to the *onihcikiskwapowin – SLCN Tribal Custom Election Code*.

13. Withdrawal of Appeal

13.1. An Appellant filing an Appeal may, at any time before the Appeals Committee has rendered a final decision, withdraw the Appeal in writing and no further action shall be taken on the matter.

14. Costs of Appeal

- 14.1. Each party will cover all their own costs for filing the Appeal and any costs in relation to their witnesses.
- 14.2. SLCN will cover the reasonable costs for the Appeals Committee from the funds garnered through the nomination/nominator processes.

15. Amendments

15.1. This *Appeals Procedure Regulation* may be amended from time to time by a resolution of the Chief and Council on the recommendation of the Elders' Advisory Council to allow for the good governance of *onihcikiskwapowin*.

This is Exhibit "S" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "S"

Terms of Reference

onihcikiskwapowin – Saddle Lake Cree Nation

Elections Eligibility Panel ("Eligibility Panel")¹

1. Introduction

The peoples of the *onihcikiskwapowin* – Saddle Lake Cree Nation (SLCN), have the Inherent Right to determine the governance of our Tribes in accordance with the traditions, customs and values as *iyiniwak* of Treaty No. 6; as a Nation *onihcikiskwapowinak* also have by consensus, the support of the peoples of the Tribe, the ability to establish and support good governance in accordance with the *onihcikiskwapowin* – Tribal Custom Elections Code; and

Reflecting that in Election year 2019, an updated Tribal Custom Elections Code has been enacted and will hereafter include a panel of *onihcikiskwapowinak* to ensure a strengthened process for achieving stable, reliable and capable leadership within *onihcikiskwapowin* – Saddle Lake Cree Nation.

2. Purpose

To provide support to the Chief Electoral Officer to successfully complete a procedurally fair and strengthened nominations process, in accordance with the amended *onihcikiskwapowin* – Tribal Customs Elections Code.

The *onihcikiskwapowin* – Saddle Lake Cree Nation Elections Eligibility Panel will ensure that the nominators and the individuals the nominators are supporting as candidates will undertake to fully comply with the eligibility criteria as articulated in the amended SLCN Tribal Customs Elections Code.

3. Composition of the Eligibility Panel

1. One (1) Individual chosen by the peoples of the *onihcikiskwapowin* at a duly held band membership/information meeting;
- One (1) Individual chosen by the Tribal Administrator of the *onihcikiskwapowin* – Saddle Lake Cree Nation;
- One (1) Individual chosen by the Treaty Governance – Elders' Advisory Committee.

4. Panel Selection Process

The panel will be selected within two (2) weeks of the selection of a Chief Electoral Officer.

- i. The panel members will adhere to the same eligibility requirements as both potential candidates and appeal committee membership.
- ii. An oath of confidentiality will be sworn in front of the Elders Advisory Committee by all members of the panel.

¹ Hereafter incorporated into the *onihcikiskwapowin* – Tribal Custom Election Code – Motion dated:

iii. Eligibility Panel – Oversight Process

After nominations are announced, the panel will interview each nominator and potential candidate to ensure the list of eligibility requirements are in compliance.

The eligibility criteria will be in accordance with the Tribal Customs Elections Code (amended version 2019)

An interview will be held between the panel and the nominator at a location selected by the Tribal Administrator in consultation with the Chief Electoral Officer.

A checklist form will be provided to the eligibility panel for usage in ensuring the evidence and information provided has been reviewed.

The panel will support the discussions held at a duly held candidates meeting where resume and platform are provided to the membership in written format. The information provided will be posted on the Saddle Lake Cree Nation website.

iv. Costs

The costs associated with supporting a panel for interviews/meeting venues and the all-candidates forum will be taken from the nominator/nominee fees.

1. RCMP Certified Criminal Record Check ☐
2. Nomination fees for nominator and nominee
 - Mover/seconder = \$50.00 ☐
 - Candidate for Council = \$500.00 ☐
 - Candidate for Chief = \$500.00 ☐
3. Resume and Platform (documentation showing the principle goals detailing the plans and objectives in seeking election) ☐
4. Proof of residency (utility bills, etc) ☐

DRAFT

Appendix 2 - Potential Questions for Nominator/Nominee²

1. How will the potential candidate go about upholding the principles of Treaty No. 6?
2. What does the potential candidate know about the current issues affecting the Inherent and Treaty rights of the peoples of *onihcikiskwapowin*?
3. How many people live in Saddle Lake and Whitefish Lake?
4. What is the Indian Act and how specifically does it affect the peoples of *onihcikiskwapowin*?
5. What is the relationship between the Federal and Provincial governments as it relates to Saddle Lake Cree Nation?
6. What is the nature of the funding relationship between the Government of Canada and Saddle Lake Cree Nation?
7. What experience does the candidate have in dealing with industry and the components of consultation?
8. What does free, prior and informed consent mean?
9. What are the most pressing issues affecting Saddle Lake Cree Nation members in 2019?
10. What will the potential candidate bring forward as practical solutions for the issues affecting the people. Please provide at least two examples.
11. What is the history of Saddle Lake?
12. What is the role of a Chief?
13. What is the role of a Council?
14. What are the roles of Elders in the nation?
15. What are the roles of women in the nation?
16. How will you bring youth into the decision making process?
17. What is your view on the difference between program management and political leadership?
18. What experience does the potential candidate have in relation to funding agreements, policy development, community planning and strategic planning?
19. What is the relationship between the Indigenous advocacy organizations in Ottawa and Edmonton and the Saddle Lake Cree Nation?
20. What does the potential candidate reasonably expect to complete in terms of goals within the three years in office? Please explain why.

² For use at any all-candidates meetings

This is Exhibit "T" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

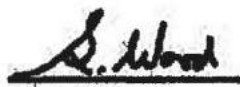
SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "T"

86

SADDLE LAKE CREE NATION**2019****COUNCIL RESULTS**

Leona Warrton - 118
Billy Cardinal - 98
Charles Cardinal - 244
Clifford Cardinal - 192
Irene Cardinal - 41
Martha Cardinal - 65
Mary Jane Cardinal - 225
Sam Cardinal - 228
Sandra Cardinal - 134
Sheryl Cardinal - 144
Terry Cardinal - 238
Valerie Cardinal - 197
Cameron Delver - 161
Deanne Delver - 99
William Haffe - 83
Derrick Houle - 140
Leonard Jackson - 319
Daniel Large - 97
Frank Large - 194
John Large - 332
Eddy Makokis - 312
Mitchel Makokis - 165
Darcy McGilvery - 291
Terence McGilvery - 70
Cora Moosewah-Houle - 187
Pamela Quinn - 312
Darrell Quinney - 175
John Shirt - 171
Eric Shirt - 367
Trina Shirt - 62
Dennis Steinhauer - 204
James Steinhauer - 247
Leslie Steinhauer - 162
Cherrilene Steinhauer - 270
Valerie Steinhauer - 40
Billy Steinhauer - 195
Jason Whiskeyjack - 338


Steve Wood
Electoral Officer

This is Exhibit "U" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "U"

Saddle Lake Goodfish Lake
Election Regulations - Adopted
BAND MEETING - GOODFISH LAKE, (NOVEMBER 15th, 1960)

Meeting opened 3:40 p.m. at Pakan School, Goodfish Lake.

CHAIRMAN: Thomas Jackson
INTERPRETER: William Bull

Eighty Band Members and Councillors present.

The election rules were read and explained by Superintendent Knapp and interpreted by William Bull.

The question of accepting the tribal or Band system or whether they wanted to go on the Indian Act elective system was put to the meeting by the Chairman.

Moved by Mrs. Frank Cardinal that the Band continue to hold elections under the present tribal custom. Seconded by Mathew Houle. 43 for none against.
CARRIED.

Moved by Noah Jackson that Councillors be elected for a three year term. Seconded by Homer Jackson.
CARRIED.

Moved by John Bird that all Band members 21 years and over whether residing on the Reserve or otherwise be eligible to vote for the election of Chief and Councillors except Red Ticket Indians. Seconded by Mrs. Mary Jean Jackson.
CARRIED.

Moved by Homer Jackson that we have five Councillors of whom one shall be Chief. Seconded by Albert Houle.
DEFEATED.

Moved by Joe Cardinal that our tribal custom is as follows: that nine Councillors be first elected for Saddle Lake and four Councillors be first elected for Goodfish Lake and that after the Councillors have been elected a second secret ballot be held to elect a Chief for Saddle Lake and a Chief for Goodfish Lake from the Councillors already elected. Seconded by Noah Jackson.
CARRIED.

Moved by Albert Houle that a man cannot be nominated for election if absent unless he has signified in writing to accept if nominated. Seconded by Jonas Cardinal.
CARRIED.

Moved by John Bird that anyone living in common-law marriage not be eligible for nomination. Seconded by Peter Shirt.
CARRIED.

Moved by Mrs. Frank Cardinal that when a man moves his family away from the Reserve, he shall not be eligible for nomination, but if he maintains his family on the Reserve and goes out to work, he will be eligible for nomination, but if elected he can only miss one regular meeting except for illness. Seconded by John Bird.
CARRIED.

Moved by John Bird that a seconder be necessary for every nomination. Seconded by Homer Jackson.
CARRIED.

Moved by Mrs. Homer Jackson that residents of Goodfish Lake Reserve shall not have the right to vote for the Saddle Lake Reserve Chief or Councillors, and residents of Saddle Lake Reserve shall not have the right to vote for the Chief and Councillors of Goodfish Lake Reserve. But Band members who are not residents of

Moved by Mrs. Frank Cardinal that the Band continue to hold elections AR 104
under the present tribal custom. Seconded by Mathew Houle. 43 for none against.
CARRIED.

Moved by Noah Jackson that Councillors be elected for a three year term.
Seconded by Homer Jackson. CARRIED.

Moved by John Bird that all Band members 21 years and over whether residing on the Reserve or otherwise be eligible to vote for the election of Chief and Councillors except Red Ticket Indians. Seconded by Mrs. Mary Jean Jackson.
CARRIED.

Moved by Homer Jackson that we have five Councillors of whom one shall be Chief. Seconded by Albert Houle. DEFEATED.

Moved by Joe Cardinal that our tribal custom is as follows: that nine Councillors be first elected for Saddle Lake and four Councillors be first elected for Goodfish Lake and that after the Councillors have been elected a second secret ballot be held to elect a Chief for Saddle Lake and a Chief for Goodfish Lake from the Councillors already elected. Seconded by Noah Jackson. CARRIED.

Moved by Albert Houle that a man cannot be nominated for election if absent unless he has signified in writing to accept if nominated. Seconded by Jonas Cardinal. CARRIED.

Moved by John Bird that anyone living in common-law marriage not be eligible for nomination. Seconded by Peter Shirt. CARRIED.

Moved by Mrs. Frank Cardinal that when a man moves his family away from the Reserve, he shall not be eligible for nomination, but if he maintains his family on the Reserve and goes out to work, he will be eligible for nomination, but if elected he can only miss one regular meeting except for illness. Seconded by John Bird.
CARRIED.

Moved by John Bird that a seconder be necessary for every nomination. Seconded by Homer Jackson. CARRIED.

Moved by Mrs. Homer Jackson that residents of Goodfish Lake Reserve shall not have the right to vote for the Saddle Lake Reserve Chief or Councillors and residents of Saddle Lake Reserve shall not have the right to vote for the Chief and Councillors of Goodfish Lake Reserve. But Band members who are not residents of either Reserve, shall have the right to vote only once and only on one Reserve of their choosing. Seconded by John Bird. CARRIED.

Moved by Mrs. Raymond Jackson that the Agency Superintendent be appointed permanent Electoral Officer and shall be responsible for calling for elections at the end of each three year term. His method of conducting the nomination meeting, except for closing it, the secret ballot and opening and counting the ballot shall be the same as set forth in the Band election regulations under 75 of the Indian Act as long as they do not conflict with any other regulations or rules made by the Band. The Electoral Officer is authorized to appoint Poll Clerks and authorized to pay the cost of the election from Band Funds after the account has been submitted to the Council and approved.

Seconded by Albert Houle

CARRIED.

Motions set forth regulating Election of Councillors.

Saddle Lake Band

As per Band Meeting October 24th, 1955.

- (1) Moved by Joe Houle that the Band custom be amended to select Councillors for a three year term only.
Seconded by Wallace Steinhauer. CARRIED UNANIMOUSLY.
- (3) Moved by Ralph Steinhauer that the selection of Councillors be made by secret ballot.
Seconded by Zacc. Stamp. CARRIED.
- (4) Moved by Julian Moses that all band members 21 years and over whether residing on the reserve or otherwise be eligible to vote for the election of Chief and Councillors except Red Ticket Indians.
Seconded by Edward Cardinal. CARRIED.
- (7) Moved by Gus Steinhauer that our tribal custom be stated and voted on as follows: That nine Councillors be elected first by secret ballot and that the Chief be selected from the nine Councillors at a later date by secret ballot.
Seconded by Julian Moses. CARRIED.

As per Council Meeting November 6th, 1957

- (19) Moved by Zacc. Jackson that a man cannot be nominated for election if absent unless he has signified in writing to accept if nominated.
Seconded by Julian Moses. CARRIED.
- (20) Moved by Julian Moses that anyone living in common-law marriage not be eligible for nomination.
Seconded by Wallace Steinhauer CARRIED.

As per Council Meeting of December 4, 1957

Moved by Marcus Sparklingeyes that a person must be living on the reserve to be eligible for Nomination as a Chief or Councillor.
Reason: to know the immediate needs of the people and to be on hand when needed.
Seconded by E. Brerton. CARRIED.

6.15 Spare

6.16 Term of Office

Chiefs and councillors shall hold office for a term of two years. The term is uniform for all bands under the elective system and is a statutory provision. If nomination meetings and elections are not held sufficiently in advance so that a new council is ready to assume the responsibilities of a band council when the term of the former council expires, the band is left without a council. The former council has no authority and will not, under any circumstances, administer the affairs of the band.

6.17 Declaration of Chief and Councillors

It has been the custom in some Bands for the Chief and Councillors to make a declaration of allegiance. This declaration is a formality the use of which should be restricted to those Bands who have followed this custom in the past. Accordingly, since these declarations are not required by the Branch they should be retained in the Agency and not forwarded to Branch Headquarters.

6.18 Vacancy from office

- (a) In the following circumstances the office of a chief or councillor becomes vacant
- (b) Under Section 77 (2) (a) of the Act, the office of a chief or councillor becomes vacant when the person who holds that office is
 - (i) convicted of an indictable offence
 - (ii) dies or resigns his office; or
 - (iii) becomes ineligible to hold office by virtue of the Act, as for example, through enfranchisement
- (c.) Under section 77 (2) (b) of the Act, the office of chief or councillor becomes vacant when the Minister declares that, in his opinion, the person holding office is unfit to continue to hold office by reason of having been convicted of an offence. In other words, the Minister may declare vacant the office of any chief or councillor if any conviction is obtained for any offence whatsoever. Ordinarily this authority would not be exercised unless the Indian in question had a bad record.
- (d.) The minister may also declare vacant the office of chief or councillor by reason of the person holding office being absent from three consecutive council meetings without being authorized to do so or was guilty of corrupt practice, accepting a bribe, dishonesty or malfeasance in connection with an election. Authorization to be absent from council meetings may be given by the chief or Superintendent with the consent of the majority of the members of the council, see section 3 (2) of the "Regulations Governing Procedure at Indian Band Council Meetings": (see Appendix A)
- (e.) All deaths and resignations must be reported promptly to the Department.

6.19 By-elections

When the office of chief or councillor becomes vacant more than three months before the date when the next election would ordi-

6.18 Vacancy from office 92

- (a) In the following circumstances the office of a chief or councillor becomes vacant
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 - (ii) dies or resigns his office; or
 - (iii) becomes ineligible to hold office by virtue of the Act, as for example, through enfranchisement
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- (e.) All deaths and resignations must be reported promptly to the Department.

6.19 By-elections

When the office of chief or councillor becomes vacant more than three months before the date when the next election would ordinarily be held

- 2 -

Moved by Mrs. William Bull that any person who is a Civil Servant shall not be eligible for nomination. Seconded by Mrs. Charlie Hunter. CARRIED.

Moved by Thomas Jackson that any person convicted under the Criminal Code of Canada shall not be nominated or if a Councillor is guilty of Improper conduct and a petition consisting of 60% of the resident members of Reserve is signed and the Petition requests his removal, he shall so be dismissed by the incumbent electoral officer and a by-election shall be called to fill the vacancy. Seconded by Collin Shirt. CARRIED.

Moved by Thomas Jackson that an Interpreter (one for Saddle Lake Reserve and one for Goodfish Lake Reserve) be appointed at a Band Meeting for both the nomination meeting and the election day who can efficiently interpret from the Cree language into the English language and from the English language into the Cree language and that such a person shall not be a member of the Saddle Lake Band and he shall be paid at the rate set by the Council. Seconded by John Bird. CARRIED.

Moved by John Bird that appeals against the election for corrupt practices be filed with the Electoral Officer within seven days of the election. Seconded by Paul Memnook. CARRIED.

Moved by Thomas Jackson that at a special ceremony, the Council take their oath of office within two weeks of the election. Seconded by Peter Shirt. CARRIED.

Moved by Thomas Jackson that meeting adjourn. Seconded by Joe Cardinal. CARRIED.

This is Exhibit "V" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

Exhibit "V"



⁹⁵
Saddle Lake Cree Nation
Box 100, Saddle Lake, Alberta
T0A 3T0

Phone (780) 726-3829 Fax (780) 726-3788
Toll Free 1-800-396-2167
www.saddl lake.ca

ATTENTION

BAND MEMBERSHIP OF THE SADDLE LAKE CREE NATION #125 #128

ELECTION REFORM AND S3 LEGISLATION MEETINGS

**URBAN MEMBERS – CHATEAU NOVA KINGSWAY GRANDROOM @
10AM – 3PM February 19 – 20, 2019 LUNCH TO BE SERVED**

**SADDLE LAKE BAND MEMBERS – AYIWAKES CULTURAL CENTER @
10AM – 3PM February 27, 2019**

**GOODFISH LAKE MEMBERS – GOODFISH LAKE COMMUNITY HALL @
10AM – 3PM March 6, 2019**

**PLEASE COME OUT TO ATTEND ONE OF THESE MEETINGS. WE WILL HAVE
AN INAC OFFICIAL LETTING US KNOW ABOUT THE NEW CODINGS THEY
HAVE ESTABLISHED.**

**IF YOU HAVE ANY QUESTIONS CALL:
CLAUDIA @ 780-726-7611 OR
NORMA @ 780-726-3829**

This is Exhibit "W" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "W"

October 15, 2020

**PETITION
FOR
WHITEFISH LAKE FIRST NATION
ELECTION PROCESS**

**WE, THE UNDERSIGNED MEMBERS OF THE WHITEFISH NATION #128 DO
HEREBY GIVE NOTICE TO THE CHIEF AND COUNCIL THAT THE DULY
REGULAR BAND ELECTION PROCESS CONTINUE TO PROCEED:**

- **NOMINATION FOR THE WHITEFISH LAKE FIRST NATION #128
COUNCIL ON NOVEMBER 4, 2020;**
- **ELECTION FOR THE WHITEFISH LAKE #128 COUNCIL ON NOVEMBER
18, 2020;**
- **ELECTION FOR CHIEF ON NOVEMBER 25, 2020**

NAME	TREATY NUMBER	SIGNATURE

November 5, 2020

**PETITION #2
FOR
WHITEFISH LAKE FIRST NATION #128**

We, the undersigned members of the Whitefish Lake First Nation #128 do hereby give notice to Chief and Council, namely;

**Chief Tom Houle
Councillor Lorne S. Houle
Councillor Greg Sparklingeyes
Councillor Kevin Halfe**

That We, the members of Whitefish Lake First Nation #128 are exercising in good faith under the Tribal Custom Election Code, that Chief and Council electoral term in office will expire immediately on November 23, 2020; not including the two-week transition period. We cite your electoral seat in office from November 24, 2017 to November 23, 2020.

The following is a list of misconduct as per Procedural Regulations, Section 6 (3) (F) of the Tribal Custom Election Code:

- **Lack of Good Governance**
- **Lack of transparency to membership, during your term, no regular Band Meeting(s) were conducted, nor has Chief and Council obtained consensus and vote on matters that are detrimental to our existence**
- **Lack of fiduciary and judicial transparency to membership**
- **The Band has been operating under a Proxy Chief with no consultation to membership**

We, the Members of Whitefish Lake First Nation #128 request that when the term of Chief and Council expires, we Call for an Election, and in the interim recommend that the Band Administrator, Mr. Evan Steinhauer act as sole ex-officio handling all matters pertaining to the business and governance of Whitefish Lake First Nation # 128. We further recommend that ALL external business and representation cease until the members of Whitefish Lake First Nation #128 have a newly elected and inaugurated Chief and Council.

We, the Undersigned:

[illegible]

November 16, 2020

WHITEFISH LAKE FIRST NATION #128

We, the undersigned Elders of the Whitefish Lake First Nation #128 do hereby give notice to Chief and Council, namely;

**Chief Tom Houle
Councillor Lorne S. Houle
Councillor Greg Sparklingeyes
Councillor Kevin Halfe**

That We, the Elders of Whitefish Lake First Nation #128 are exercising in good faith under the Tribal Custom Election Code, that Chief and Council electoral term in office will expire immediately on November 23, 2020; not including the two-week transition period. We cite your electoral seat in office from November 24, 2017 to November 23, 2020.

The following is a list of misconduct as per Procedural Regulations, Section 6 (3) (F) of the Tribal Custom Election Code:

- **Lack of Good Governance**
- **Lack of transparency to membership, during your term, no regular Band Meeting(s) were conducted, nor has Chief and Council obtained consensus and vote on matters that are detrimental to our existence**
- **Lack of fiduciary and judicial transparency to membership**
- **The Band has been operating under a Proxy Chief with no consultation to membership**

We, the Elders of Whitefish Lake First Nation #128 request that when the term of Chief and Council expires, we Call for an Election, and in the interim recommend that the Band Administrator, Mr. Evan Steinhauer act as sole ex-officio handling all matters pertaining to the business and governance of Whitefish Lake First Nation # 128. We further recommend that ALL external business and representation cease until the members of Whitefish Lake First Nation #128 have a newly elected and inaugurated Chief and Council.

This is Exhibit "X" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "X"

November 6, 2020

Whitefish Lake First Nation #128
Box 271
Goodfish Lake, AB. T0A 1R0

Attention: Chief Tom Houle
Councilor Lorne S. Houle
Councilor Greg Sparklingeyes
Councilor Kevin Half

Re: Response to Band Notification to Band Members dated October 27, 2020

We the undersigned, write this letter in response to events surrounding a decision that has a profound impact on the members of Whitefish Lake First Nation #128 in regard to band election 2020. As elders in the community we find it hard to believe that there was a elders meeting as stated on the said letter attached. About a month ago, an inquiry to our elder's program coordinator was sought to set up a meeting with the elders so that our upcoming election could be discussed. An elder was informed at that time that because of the Covid pandemic that coordinating large gatherings was unadvisable. An elder, subsequently asked council member, Mr. Kevin Halfe, through social media, if there was an elders meeting, of which there was no response. Further to this, an elder then asked the same question to the Band administrator, Evan Steinhauer, and he responded with an, "I don't know" response.

In regard to the covid-19 (pandemic issue) there is implication that we lost some people here in our nation – of which must be clarified. Indeed, we have lost some people, but it was never due to the pandemic – this sirs, is an outright LIE and fear mongering.

On the issue of election law as many of you are well aware, there are two types of laws; 1) Indian Act election law, and; 2) Custom Election laws. The second one is our laws here in Whitefish Lake First Nation #128. Attached is a letter written by then Minister of Indian Affairs, Mr. David Crombie, on the issue of differences in regard to the Custom Election Law. He is the authority on the Indian Act, he summarizes by stating, "it's your law, you resolve it". This is the authority and sovereignty we have, let's continue to act as a sovereign nation. We risk assimilation into the body politic when we conform to domestic law – this is our election matter.

In regard to the first paragraph of the band council resolution (BCR), dated, October 27, 2020; it states "responsible to the membership for the peace, order and good government" - personally, we do not see peace, order and good government here.

Furthermore, if there was order and good government; the nations electoral list would have been ready months ago, dates of the election identified, a budget approved, and an established electoral committee and officer would have been posted at the beginning of October 2020.

To you the elected leadership, we observe that good government does not exist:

- Chief and Council lied to the people about having a meeting with the elders.
- Chief and Council lied in response to covid-19, deaths in our community were not because of covid-19.
- Quoting Indian Act sections in replace of our Custom Election Law, does not supersede our governance.


Lastly, to highlight a few, there continues to be several unfinished band business:

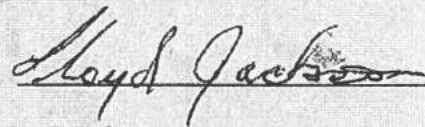
- land claims
- gas cost allowance
- updating our custom election law
- creating our own membership codes
- separation issues, case presently in the courts, where are we on that?

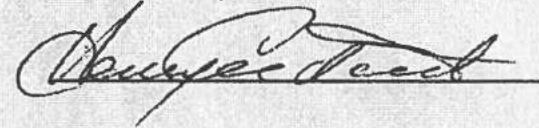
We were never given the opportunity to express our opinion on these issues on a duty to call a band Meeting. There is no integrity, accountability or transparency in the band government. We call for an immediate election and response.

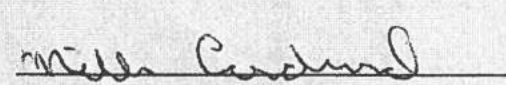
In the spirit of our natural laws, the elders of Whitefish Lake First Nation #128

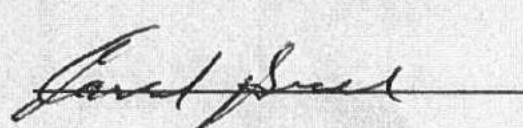
Undersigned,

 SIMON SPARKLINGEYES TREATY #982

 Lloyd Jackson = 801

 Henry Cardinal T = 1004

 Mills Cardinal #1199

 Earl Bull

cc. Jim Sisson, Regional Director General, Indigenous Service Canada, Alberta Region

November 19, 2020

Whitefish Lake Band #128
Box 271
Goodfish Lake, AB. T0A-1R0
{780}636-7000

Attention Evan Steinhauer:

We the Elders of Whitefish Lake First Nation #128, request in writing, at what stage of the Election process are you at. Have you selected the Electoral Officer? Have you selected an Election Committee? Is the Election Voters List prepared? We also recommend that you give notice to the Nation as soon as possible.

Time is of essence, there is approximately 3 weeks of work left before staff employees will be off work for the Christmas Holidays. Possible expected return date to work is January 4, 2021. Which is the date that all Election information should be released to the people of Whitefish Lake First Nation #128.

We the Elders have left a paper trail to all who received documents that we have been sending out.

Representing of behalf of the Elders,

From: Lorna jackson-littlewolfe

Sent: November 12, 2020 11:11 AM

To: [REDACTED]

Subject: Elders of Whitefish Lake First Nation @128

As requested by the Elders of Whitefish Lake @128, I am forwarding you a copy of a letter they gave to Chief and Council of our Nation. The Elders said that it would be in our best interest as a Nation to keep you informed.

hiy hiy

November 6, 2020

Whitefish Lake First Nation #128
Box 271
Goodfish Lake, AB. T0A 1R0

Attention: Chief Tom Houle
Councilor Lorne S. Houle
Councilor Greg Sparklingeyes
Councilor Kevin Half

Re: Response to Band Notification to Band Members dated October 27, 2020

We the undersigned, write this letter in response to events surrounding a decision that has a profound impact on the members of Whitefish Lake First Nation #128 in regard to band election 2020. As elders in the community we find it hard to believe that there was a elders meeting as stated on the said letter attached. About a month ago, an inquiry to our elder's program coordinator was sought to set up a meeting with the elders so that our upcoming election could be discussed. An elder was informed at that time that because of the Covid pandemic that coordinating large gatherings was unadvisable. An elder, subsequently asked council member, Mr. Kevin Half, through social media, if there was an elders meeting, of which there was no response. Further to this, an elder then asked the same question to the Band administrator, Evan Steinhauer, and he responded with an, "I don't know" response.

In regard to the covid-19 (pandemic issue) there is implication that we lost some people here in our nation – of which must be clarified. Indeed, we have lost some people, but it was never due to the pandemic – this sirs, is an outright LIE and fear mongering.

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Furthermore, if there was order and good government; the nations electoral list would have been ready months ago, dates of the election identified, a budget approved, and an established electoral committee and officer would have been posted at the beginning of October 2020.

To you the elected leadership, we observe that good government does not exist:

- Chief and Council lied to the people about having a meeting with the elders.
- Chief and Council lied in response to covid-19, deaths in our community were not because of covid-19.
- Quoting Indian Act sections in replace of our Custom Election Law, does not supersede our governance.

Lastly, to highlight a few, there continues to be several unfinished band business:

- land claims
- gas cost allowance
- updating our custom election law
- creating our own membership codes
- separation issues, case presently in the courts, where are we on that?

We were never given the opportunity to express our opinion on these issues on a duty to call a band Meeting. There is no integrity, accountability or transparency in the band government. We call for an immediate election and response.

In the spirit of our natural laws, the elders of Whitefish Lake First Nation #128

Undersigned,

cc. Jim Sisson, Regional Director General, Indigenous Service Canada, Alberta Region

From: Lorna jackson-littlewolfe

Sent: November 23, 2020 2:46 PM

To: [REDACTED]

Subject: Elders of Whitefish Lake First Nation #128

I am asked to correspond on behalf of the Elders of Whitefish Lake First Nation #128. Attached is a letter given to the Administrator of our nation and also chief and council. The Elders thought it was in our best interest to keep you informed.

November 16, 2020

WHITEFISH LAKE FIRST NATION #128

**We, the undersigned Elders of the Whitefish Lake First Nation #128 do hereby give notice to
Chief and Council, namely;
Chief Tom Houle
Councillor Lorne S. Houle
Councillor Greg Sparklingeyes
Councillor Kevin Halfe**

According to the letter and attached BCR (dated October 27, 2020) that was sent out to the members of Whitefish Lake First Nation #128, we the Elders are mentioned, quote "In making this decision, we have sought council from Elders in our community". We the Elders, have met to discuss the letter and BCR and have concluded that We, the Elders of Whitefish Lake First Nation #128 are exercising in good faith under the Tribal Custom Election Code, that Chief and Council electoral term in office will expire immediately on November 23, 2020; not including the two-week transition period. We cite your electoral seat in office from November 24, 2017 to November 23, 2020.

The following is a list of misconduct as per Procedural Regulations, Section 6 (3) (F) of the Tribal Custom Election Code:

- **Lack of Good Governance**
- **Lack of transparency to membership, during your term, no regular Band Meeting(s) were conducted, nor has Chief and Council obtained consensus and vote on matters that are detrimental to our existence**
- **Lack of fiduciary and judicial transparency to membership**
- **The Band has been operating under a Proxy Chief with no consultation to membership**

We, the Elders of Whitefish Lake First Nation #128 request that when the term of Chief and Council expires, we Call for an Election, and in the interim recommend that the Band Administrator, Mr. Evan Steinhauer act as sole ex-officio handling all matters pertaining to the business and governance of Whitefish Lake First Nation #128. We further recommend that ALL external business and representation cease until the members of Whitefish Lake First Nation #128 have a newly elected and inaugurated Chief and Council.

This is Exhibit "Y" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "Y"



Whitefish Lake FIRST NATION #128

NOTICE TO POTENTIAL CANDIDATES

Notice is given to all potential candidates for the position of council of the Whitefish Lake First Nation #128.

The required documents must be provided to the Electoral Officer or Deputy Electoral Officer(s):

- a) A recent copy of Criminal Record Check is required from the candidate, nominator, and seconder.
- b) Statutory Declaration must be signed by the candidate, nominator, and seconder.
- c) Copy of marriage certificate.

All documents must be submitted by the close of the Nomination meeting on **April 1st, 2021 at 8:00 p.m.**

If you are unable to provide all documents a Commissioner of Oaths will be in attendance during the Nomination meeting on **April 1st, 2021**. You must solemnly declare conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

In the past WFL elections, each candidate was allowed scrutineers inside the polling station to observe the proceedings. Due to Covid-19 new safety measures, the election will be different from past elections. To minimize risk of COVID-19, during the Nomination on **Thursday, April 1st, 2021** and Election for Councilor's on **Thursday, April 15th, 2021** and Election of Chief on **Thursday, April 22nd, 2021** there shall be a maximum of 10 people in one closed room; Electoral Officer, Deputy Officers, Commissioner of Oaths, election workers, security, Nominator, Secunder and Candidate.

The Nomination on April 1st, 2021 and Elections day for April 15th and April 22nd, 2021 will be live streamed and recorded.

Posted this 10th, day of March 2021 at the Whitefish Lake First Nation #128.

Brenda Vanguard
Electoral Officer

[REDACTED]

[REDACTED]

[REDACTED]

This is Exhibit "Z" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "Z"



NOTICE FOR COUNCILLOR ELECTION DAY

Notice is hereby given to the electors of the Whitefish Lake First Nation #128 that:

The Date of Election for the position of four (4) Councillors will be held as followed:

Voting Poll Station (1): *Whitefish Lake First Nation #128 Community Hall*

Last Name(s) beginning with: A - H

Date: April 29, 2021

Time: 8:00 AM – 8:00 PM

Voting Poll Station (2): *Whitefish Lake First Nation #128 Pakan School*

Last Name(s) beginning with: I - Z

Date: April 29, 2021

Time: 8:00 AM – 8:00 PM

And further take Notice that:

The Election for Chief will be held May 6, 2021 at the Whitefish Lake First Nation #128 Community Hall; Time: 8:00 AM – 8:00PM.

Brenda Vanguard
Electoral Officer
Whitefish Lake First Nation #128



This is Exhibit "AA" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

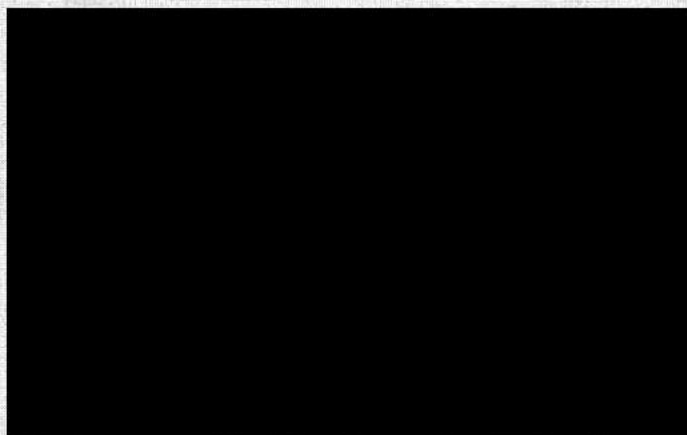
Exhibit "AA"

February 11, 2021

Tansi, I Micheal Lawrence Littlewolfe, status number [REDACTED], of Whitefish Lake First Nation band #128, in the treaty six territory, **nominate** Lorna Lynn Jackson-Littlewolfe to run as an elected official in the 2021 Chief and Council election. Hiy Hiy.

Signature

Micheal Littlewolfe





Royal Canadian Gendarmerie royale
Mounted Police du Canada

119

AR134 Protected B
once completed

PIB	CMP PPU 030
PIB	CMP PPU 005

Release of Results of Criminal Record Check

Reference Number

Important Notices

- This information does not constitute a Certified Criminal Record by the RCMP.
- A Certified Criminal Record can only be issued based on the submission of fingerprints to the RCMP National Repository of Criminal Records.
- This information may not contain all criminal record convictions, or convictions and records related to "young persons" pursuant to the *Youth Criminal Justice Act*.
- Motor vehicle records not checked; consult provincial/territorial ministries for driver's abstract.

Applicant Information

Note: This is not an affirmation of good character

☒ **Negative:** Based solely on the name and date of birth provided by the applicant, a search of the RCMP National Repository of Criminal Records did not identify any records with the name and date of birth of the applicant. All available police records management systems and court records, where applicable were also searched. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by fingerprint comparison. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.

☐ **Incomplete:** Based solely on the name and date of birth provided by the applicant, a search of the RCMP National Repository of Criminal Records could not be completed. All available police records management systems and court records, where applicable were also searched. Positive identification that a criminal record does or does not exist requires the applicant to submit fingerprints to the RCMP National Repository of Criminal Records by an authorized police service or accredited private fingerprinting company. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.

☐ **Possible Match:** Based solely on the name and date of birth provided by the applicant, a search of the RCMP National Repository of Criminal Records has resulted in a possible match to a registered criminal record. All available police records management systems and court records, where applicable were also searched. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by fingerprint comparison. As such, the criminal record information declared by the applicant does not constitute a Certified Criminal Record by the RCMP. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.

☐ **Local Conviction not Added to National Repository of Criminal Records:** Based solely on the name and date of birth provided and the criminal record information declared by the applicant, there was a criminal conviction registered on the date below, but not a sex offender record where a Record Suspension (Pardon) was granted. Delays do exist between a conviction rendered in court and the details being accessible on the RCMP National Repository of Criminal Records.

If "Local Conviction not Added to National Repository of Criminal Records" was selected, please provide the date the criminal conviction was registered on. (yyyy-mm-dd)

Additional Comments (this field expands)

Received by

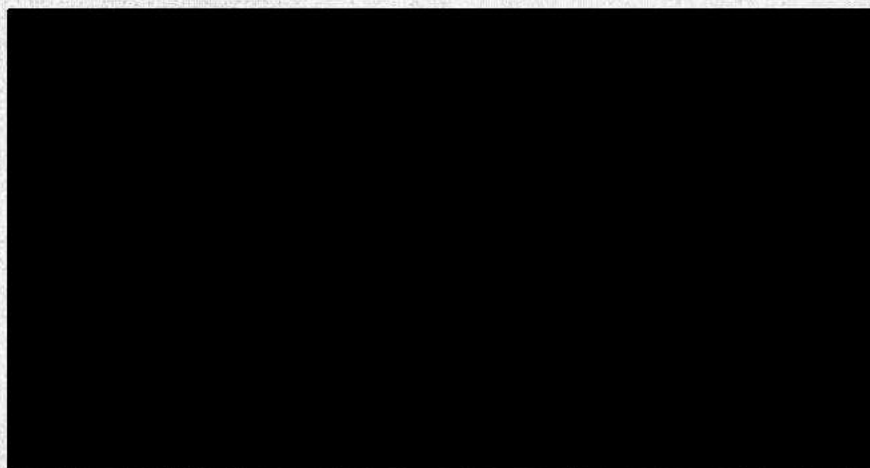
Employee Name SIEMIERTOKA	HRMIS No. 000246368	Detachment Stamp or Seal Saddle Lake Detachment NCO i/c RCMP 4806 - 55 Street ST. PAUL AB T0A 3A1
Signature <i>A. Siemiertoka</i>	Date (yyyy-mm-dd) 2021-02-19	

February 11, 2021

Tansi, I Rosalynn Ann Littlewolfe, status number [REDACTED] of Whitefish Lake First Nation band #128, in the treaty six territory, **second the nomination** for Lorna Lynn Jackson-Littlewolfe to run as an elected official in the 2021 Chief and Council election. Hiy Hiy.

Signature

Rosalynn Littlewolfe





Royal Canadian Gendarmerie royale
Mounted Police du Canada

121

AR136 Protected B
once completed

PIB	CMP PPU 030
PIB	CMP PPU 005

Release of Results of Criminal Record Check

Reference Number

Important Notices

- This information does not constitute a Certified Criminal Record by the RCMP.
- A Certified Criminal Record can only be issued based on the submission of fingerprints to the RCMP National Repository of Criminal Records.
- This information may not contain all criminal record convictions, or convictions and records related to "young persons" pursuant to the *Youth Criminal Justice Act*.
- Motor vehicle records not checked; consult provincial/territorial ministries for driver's abstract.

Note: This is not an affirmation of good character

☒ **Negative:** Based solely on the name and date of birth provided by the applicant, a search of the RCMP National Repository of Criminal Records did not identify any records with the name and date of birth of the applicant. All available police records management systems and court records, where applicable, were also searched. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by fingerprint comparison. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.

☐ **Incomplete:** Based solely on the name and date of birth provided by the applicant, a search of the RCMP National Repository of Criminal Records could not be completed. All available police records management systems and court records, where applicable, were also searched. Positive identification that a criminal record does or does not exist requires the applicant to submit fingerprints to the RCMP National Repository of Criminal Records by an authorized police service or accredited private fingerprinting company. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.

☐ **Possible Match:** Based solely on the name and date of birth provided by the applicant, a search of the RCMP National Repository of Criminal Records has resulted in a possible match to a registered criminal record. All available police records management systems and court records, where applicable, were also searched. Positive identification that a criminal record does or does not exist at the RCMP National Repository of Criminal Records can only be confirmed by fingerprint comparison. As such, the criminal record information declared by the applicant does not constitute a Certified Criminal Record by the RCMP. Delays do exist between a conviction being rendered in court, and the details being accessible on the RCMP National Repository of Criminal Records. Not all offences are reported to the RCMP National Repository of Criminal Records.

☐ **Local Conviction not Added to National Repository of Criminal Records:** Based solely on the name and date of birth provided and the criminal record information declared by the applicant, there was a criminal conviction registered on the date below, but not a sex offender record where a Record Suspension (Pardon) was granted. Delays do exist between a conviction rendered in court and the details being accessible on the RCMP National Repository of Criminal Records.

If "Local Conviction not Added to National Repository of Criminal Records" was selected, please provide the date the criminal conviction was registered on.
(yyyy-mm-dd)

Additional Comments (this field expands)

Received by

Employee Name
SIEWIERTOKA

HRMIS No.
000246368

Signature

A. Siewiértoka

Date (yyyy-mm-dd)

2021-02-19

Detachment Stamp or Seal

Saddle Lake Detachment
NCO i/c RCMP
4806 - 55 Street
ST. PAUL, AB T0A 3A1

This is Exhibit "BB" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "BB"

From: Gas Utility <[REDACTED]>

Sent: Tuesday, April 20, 2021 4:35:31 PM

[REDACTED]
[REDACTED]

Subject: Meeting with Appeals Committee

Please be advised that there has been a written letter of appeal forwarded to the Appeals Committee regarding your eligibility run in in the 2021 Whitefish Lake First Nation #128 Elections. Section 1 (C) of the Nations Electoral By-law has been cited and referenced as the basis for your eligibility.

To this end , we are seeking an audience with you today April 29th/2021 in the Tribal Council Chambers to discuss our decision relative to this matter.

Kind Regards

Ed Cardinal

Chairman Appeals Committee

Cc. Evan Steinhauer , Doreen Jackson , Rena Sparklingeyes , Kim Faithful , Maryann Sparklingeyes

This is Exhibit "CC" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "CC"

12:47

100



AR140



Add to contacts

Block number

Tuesday, April 20, 2021

Good evening Mr.
Cardinal...I received
your email and
looked over the
letter...can you
please provide me
with a letter with
the proper date and
also include the
time, please....thank
you, Lorna
Jackson-Littlewolfe

5:19 p.m.



I'm not at work
right now

5:36 p.m.

Wednesday, April 21, 2021

Good morning Mr.



This is Exhibit "DD" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "DD"

From: Lorna jackson-littlewolfe [REDACTED] >
Sent: April 20, 2021 5:15 PM
To: [REDACTED]
Subject: Re: Meeting with Appeals Committee

Good afternoon Chairman Ed Cardinal

Can you please provide me a letter with the proper date and time.

Thank you,

Lorna Jackson-Littlewolfe

Get [Outlook for Android](#)

From: Gas Utility <[REDACTED]>
Sent: Tuesday, April 20, 2021 4:35:31 PM
To: [REDACTED]
Subject: Meeting with Appeals Committee

Please be advised that there has been a written letter of appeal forwarded to the Appeals Committee regarding your eligibility run in in the 2021 Whitefish Lake First Nation #128 Elections. Section 1 (C) of the Nations Electoral By-law has been cited and referenced as the basis for your eligibility.

To this end , we are seeking an audience with you today April 29th/2021 in the Tribal Council Chambers to discuss our decision relative to this matter.

Kind Regards

Ed Cardinal

Chairman Appeals Committee

Cc. Evan Steinhauer , Doreen Jackson , Rena Sparklingeyes , Kim Faithful , Maryann Sparklingeyes

This is Exhibit "EE" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKEY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "EE"



Whitefish Lake FIRST NATION #128

Box 271 Goodfish Lake, AB T0A 1R0

April 20, 2021

To: Lorna Jackson-Littlewolfe

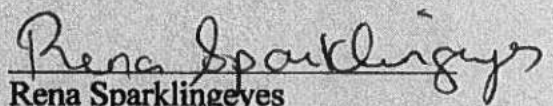
Please be advised that the Appeals Committee held a duly convened meeting on April 19, 2021 in the Council Chambers to address letters protesting candidates. In accordance to the Tribal Custom Electoral Bylaw Section 1(c), it has been determined that you are not an eligible candidate for the 2021 Elections, as you are in a common law relationship.

Also, the proxy letters that you presented to the Electoral Officer appear to be presumptuous and ambiguous in nature and have not been notarized or commissioned by a Commissioner of Oath.

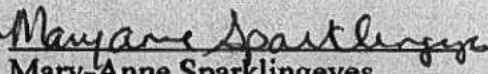
Based on the above, the Appeals Committee have ruled that you are not an eligible candidate; signed by the signatures below appearing:


Ed Cardinal


Doreen Jackson


Rena Sparklingeyes


Kim Memnook


Mary-Anne Sparklingeyes

This is Exhibit "FF" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "FF"



Whitefish Lake FIRST NATION #128

Box 271 Goodfish Lake, AB T0A 1R0

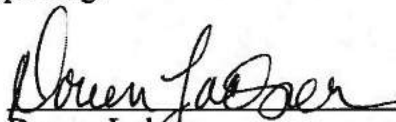
April 20, 2021

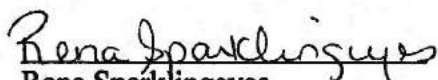
To: Lorna Jackson-Littlewolfe

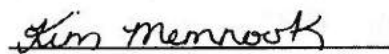
Please be advised that the Appeals Committee held a duly convened meeting on April 19, 2021 in the Council Chambers to address letters protesting candidates. In accordance to the Tribal Custom Electoral Bylaw Section 1(c), it has been determined that you are not an eligible candidate for the 2021 Elections, as you are in a common law relationship.

Based on the above, the Appeals Committee has ruled that you are not an eligible candidate; signed by the signatures below appearing:


Ed Cardinal


Doreen Jackson


Rena Sparklingeyes


Kim Memnook


Mary-Anne Sparklingeyes

This is Exhibit "GG" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "GG"

12:47

100



AR148



5:30 p.m.

Wednesday, April 21, 2021

Good morning Mr. Cardinal...when will I receive my letter based on the decision made by the appeals committee? And also, I would like a copy of the minutes that were taken during the appeal meeting, can you please have that ready for me to pick up when I go pick up my letter...thank you, Lorna Jacks

View all

9:08 a.m.



12:47

134



AR149



9:08 a.m.

View all



No

9:25 a.m.

9:26 a.m.

What do you mean by "no"??



I said no

9:26 a.m.

9:27 a.m.

"No" to asking for the letter from the appeals committee?? Or "No" to the request for the minutes??

Mr. Cardinal...it is your duty as chairperson, to provide me with a letter based on the decision





9:26 a.m.

**I said no**

9:26 a.m.

"No" to asking
for the letter
from the appeals
committee?? Or "No"
to the request for
the minutes??

9:27 a.m.

Mr. Cardinal...it
is your duty as
chairperson, to
provide me with
a letter based
on the decision
of the appeals
committee...

10:07 a.m.

When can I pick it
up?

10:13 a.m.



This is Exhibit "HH" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "HH"

From: brenda joly
Sent: April 21, 2021 1:03 PM
To: Lorna jackson-littlewolfe
Subject: Re: appeals

I will talk to Ed Cardinal after my zoom meeting.

Brenda

On Wed., Apr. 21, 2021, 11:32 a.m. Lorna jackson-littlewolfe, [REDACTED] wrote:

Good morning Brenda.

April 21, 2021, I contacted the Chairman Mr. Ed Cardinal, via text messaging, asking for my letter based on the decision made by the appeals committee. I also requested a copy of the minutes that were taken during the appeal meeting. I asked Mr. Cardinal to have the said documents available for me to pick up. Mr. Cardinal responded by saying "No". I replied back, "No" to asking for the letter from the appeals committee?? Or "No" to the the request of the minutes??...I had not received a reply from Mr. Cardinal. I then sent a another text message, "Mr. Cardinal, it is your duty as Chairperson, to provide me with a letter based on the decision of the appeals committee. When can I pick it up?" I still have NOT received a response from Mr. Cardinal.

Brenda, as the Electoral Officer to Whitefish Lake Band #128, I am requesting for the letter based on the decision of the election committee. Can you please have that available to me for pick up at our Administrative office today.

Hiy hiy

Lorna Jackson_Littlewolfe

From: Lorna jackson-littlewolfe
Sent: April 21, 2021 2:25 PM
To: Lorna jackson-littlewolfe
Subject: RE: appeals

Hi Brenda.

I have not received a reply from you or Mr. Ed Cardinal in regards for my request of the minutes of said appeals meeting April 20, 2021.

I am also now requesting a copy of the appeal letter that was submitted to the committee.

I would appreciate a response immediately.

Hiy hiy,

Lorna Jackson-Littlewolfe

Sent from Mail for Windows 10

From: Lorna jackson-littlewolfe
Sent: April 21, 2021 11:32 AM
To: brenda joly
Subject: appeals

Good morning Brenda.

April 21, 2021, I contacted the Chairman Mr. Ed Cardinal, via text messaging, asking for my letter based on the decision made by the appeals committee. I also requested a copy of the minutes that were taken during the appeal meeting. I asked Mr. Cardinal to have the said documents available for me to pick up. Mr. Cardinal responded by saying "No". I replied back, "No" to asking for the letter from the appeals committee?? Or "No" to the the request of the minutes??...I had not received a reply from Mr. Cardinal. I then sent a another text message, "Mr. Cardinal, it is your duty as Chairperson, to provide me with a letter based on the decision of the appeals committee. When can I pick it up?" I still have NOT received a response from Mr. Cardinal.

Brenda, as the Electoral Officer to Whitefish Lake Band #128, I am requesting for the letter based on the decision of the election committee. Can you please have that available to me for pick up at our Administrative office today.

Hiy hiy

Lorna Jackson_Littlewolfe

This is Exhibit "II" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "II"



Whitefish Lake¹⁴⁰
FIRST NATION #128

Box 271 Goodfish Lake, AB T0A 1R0

April 21, 2021

To: Lorna Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 20, 2021 in the Council Chambers to address your eligibility.

As discussed last evening in the Council Chambers that you are not eligible to run in the Whitefish Lake Band #128 Elections 2021 pursuant to Section 1(c) of the Tribal Custom Election Bylaw.

We have come to a conclusion that we are going to uphold the requirement of the Tribal Custom Elections, which deems that you are not eligible.

Based on the above, we have made a final decision to omit your name from the list of candidates who are eligible to run.\


Ed Cardinal

Elections Committee Chairperson

Phone: (780) 636-7000 • Fax: (780) 636-3534 • Email: whitef@telusplanet.net
Toll Free: 1-800-409-3978 • Edmonton Line: (780) 428-9501

This is Exhibit "JJ" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "JJ"

PRESENTED April 20/2021
SADDLE LAKE TRIBAL COUNCIL

THE FOLLOWING HAS BEEN TAKEN FROM THE MINUTES OF THE BAND MEETINGS HELD ON THE SADDLE LAKE RESERVE IN 1955 AND 1960. ALL AREAS NOT COVERED BY THE OUTLINE HEREIN SHALL BE COVERED UNDER THE INDIAN ACT, AS SPELLED OUT IN SECTION 73 TO 78.

ELECTION REGULATIONS

Section (1):

Eligibility for Nomination:

- (a) No person who is a Civil Servant shall be eligible to be nominated.
- (b) No person can be nominated for an election if absent, unless he/she has signified in writing his/her acceptance of the nomination.
- (c) No person living in a Common Law marriage shall be eligible for nomination.
- (d) No person who maintains his/her home off the Reserve shall be eligible for nomination. (If he/she has his/her main place of residence or his/her family on the Reserve and works off the Reserve, he/she shall become eligible. However, he/she is allowed to miss only one regular meeting, except for illness.
- (e) No person convicted under the Criminal Code of Canada shall be eligible for nomination.
- (f) No person under the age of 21, as of the day of nomination, shall be eligible to nominate or be nominated.
- (g) No nomination is valid without a seconder.

- (a) Any Band member, over the age of 21 years, on the day of the election, whether living on the Reserve or not, shall be eligible to cast a vote; with the exception of Red Ticket Indians.
- (b) Residents of the Goodfish Lake Reserve shall not be allowed to vote for a Chief or Councillor on the Saddle Lake Reserve.
- (c) Residents of the Saddle Lake Reserve shall not be allowed to vote for a Chief or Councillor on the Goodfish Lake Reserve.
- (d) A person who is not a resident of either Reserve, but who is a member of the Band, may vote once on the Reserve of his/her choice.

Section (3):

Election Procedural Regulations:

- (a) Chief and Councillor are elected for a three-year term.
- (b) There shall be nine Councillors for the Saddle Lake Reserve.
- (c) There shall be four councillors for the Goodfish Lake Reserve.
- (d) The election of the Chief shall be held pursuant to the election of the Councillors and the Chief shall come from among the elected Councillors.
- (e) There shall be an interpreter* (one for the Saddle Lake Reserve and one for the Goodfish Lake Reserve) appointed at a Band meeting for both the nomination and election days.
- (f) A Councillor or Chief guilty of improper conduct who has had a petition requesting his/her removal, signed by 60% of the resident members of the Reserve, shall be so dismissed by the Incumbent Electoral Officer and a bi-election shall be called to fill the vacancy.

- (g) The District Supervisor is the permanent Electoral Officer and it shall be his responsibility for the calling of elections at the end of each three-year term. His method of conducting nomination meetings (except for the closing of it), the secret ballot, the opening, closing, and counting of the ballots shall be the same as set forth in the Band Election Act, Section 73, of the Indian Act, as long as they do not conflict with any regulations, rules or ordinances passed by the Band. The Electoral Officer is authorized to appoint Poll Clerks, and authorized to pay the cost of the election from Band funds after the count has been submitted to Council and approved.

* Interpreter: shall be a person who can effectively interpret from the Cree language into the English language and from the English language into the Cree language. This person shall not be a member of the Saddle Lake Band. He/She shall be paid at a rate set by the Band Council.

Special Nomination Meeting Procedures

No person other than an elector who resides in a section may be nominated for the office of councillor to represent that section on the council.

Indian act. Section 75, sub, "1".

No person may be a candidate for election as chief or councillor unless his name is set in nomination and seconded by persons who are themselves eligible to be nominated. *Indian Act Section 75, sub "2"; R.S., c 149, s 74.

This is Exhibit "KK" referred to
in the Affidavit of Lorna Jackson-Littlewolfe
sworn (or affirmed) before me this 23rd day
of June, 2021


A Commissioner for Oaths in and for Alberta

SIMONE R. MULKAY
Barrister & Solicitor
Commissioner for Oaths &
Notary Public for Alberta
Appointment does not Expire

Exhibit "KK"



Justice Centre for Constitutional Freedoms

April 28, 2021

VIA EMAIL AND FACSIMILE

WHITEFISH LAKE FIRST NATION #128
Administration Building
PO Box 271
Goodfish Lake, Alberta T0A 1R0
Fax: [REDACTED]

Dear Administrator, Appeals Committee and Electoral Officer:

RE: Unconstitutional discrimination based on marital status in the Saddle Lake Tribal Customs Election Regulation and Decision to deem Lorna Jackson-Littlewolfe ineligible to run in the 2021 Elections

We are counsel for Lorna Jackson-Littlewolfe. Ms. Jackson-Littlewolfe was deemed ineligible by the Appeals Committee to run as a candidate in the Whitefish Lake First Nation #128 Elections 2021 due to her marital status (the "Decision").

This Decision was expressly based on a provision in the former Saddle Lake Tribal Customs Election Regulations (the "Election Regulations") which stated that "[n]o person living in a Common Law marriage shall be eligible for nomination." As you know, in 2017, the Federal Court of Canada ruled that the Election Regulations failed to meet minimum legal requirements and required that Saddle Lake draft a "transparent, procedurally fair, and unbiased nomination and election process".¹ The Court specifically observed that a "provision preventing nomination for election based on marital status alone would seem to be a discriminatory practice and unconstitutional."²

As you know Saddle Lake has revoked the former Election Regulations and adopted a new Tribal Customs Election Code, which does not discriminate against candidates on the basis of their marital status.

The prohibition on those in common law marriages from running as candidates in the former Election Regulations and the Decision to deem Ms. Jackson-Littlewolfe not an eligible candidate for this election on that basis violates Whitefish Lake members' right to equality protected by section 15(1) of the *Canadian Charter of Rights and Freedoms* (the "Charter").

¹ *Shirt v Saddle Lake Cree Nation*, 2017 FC 364 [*Shirt*] at paras 70-71.

² *Shirt* at para 67.

Section 15(1) of the *Charter* states that “[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination” including discrimination on the basis of marital status.³ There is no justification for the violation of the constitutional rights of members of Whitefish Lake First Nation.

On behalf of Ms. Jackson-Littlewolfe, we request that Whitefish Lake First Nation cease discriminating against election candidates on the basis of their marital status, and that Ms. Jackson-Littlewolfe be permitted to stand as a candidate in the upcoming election, currently scheduled for April 29, 2021.

Please be advised that failure to grant this request will result in legal action being taken, including a court application challenging the unconstitutional discrimination of the former Election Regulations and the Decision, and requesting that a fair election be held.

Yours Sincerely,



Jocelyn Gerke
Marty Moore
Justice Centre for Constitutional Freedoms
Counsel for the Applicant

cc: Evan Steinhauer, Nation Administrator, evan.steinhauer@yahoo.com
Brenda Vangaurd, Electoral Officer, brendajoly55@gmail.com
Ed Cardinal, Appeal Committee Chair, gflgas2018@outlook.com
Lorna Jackson-Littlewolfe, lornajlw@hotmail.com

³ See para 32 of *Nova Scotia (Attorney General) v Walsh*, 2002 SCC 83.

FEDERAL COURT

BETWEEN:

LORNA JACKSON-LITTLEWOLFE

Applicant

- and -

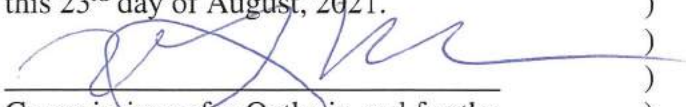
WHITEFISH LAKE FIRST NATION #128

Respondent

AFFIDAVIT OF ANNEKE PINGO

I, Anneke Pingo, of Cochrane, Alberta, SWEAR THAT:

1. I am a paralegal in the office of the Justice Centre for Constitutional Freedoms and as such have personal knowledge of the facts herein deposed except where based on information and belief, in which case I verily believe the same to be true.
2. On August 23, 2021, I reviewed the Statistics Canada webpage listing the 2016 Census data showing the marital status of persons on "White Fish Lake 128, Indian reserve", attached hereto as **Exhibit "A"** and available at the following link:
<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Code1=4812808&Geo2=PR&Code2=48&SearchText=White+Fish+Lake+128&SearchType=Begins&SearchPR=01&B1=Families,%20households%20and%20marital%20status&TABID=1&type=0>.
3. I swear this affidavit *bona fide*, for no improper purpose.

SWORN BEFORE ME at Calgary, Alberta,
this 23rd day of August, 2021.

 Commissioner for Oaths in and for the
 Province of Alberta


 ANNEKE PINGO

Marty Moore
 Barrister & Solicitor



Statistics
Canada

Statistique
Canada

AR165

[Home](#) > [Census Program](#) > [Data products, 2016 Census](#)

> [Census Profile, 2016 Census](#) > [Search results for "White Fish Lake 128"](#)

> White Fish Lake 128, IRI (Indian reserve) [Census subdivision], Alberta and Alberta [Province]

Census Profile, 2016 Census

White Fish Lake 128, Indian reserve [Census subdivision], Alberta and Alberta [Province]

Topic:

Families, households and marital status

Counts

Rates

Submit



Related data ▾

THIS IS EXHIBIT " A "
referred to in the Affidavit of
Anneke Pingo
Sworn before me this 23rd
day of August A.D. 2011
[Signature]
A Commissioner in and for the Province of Alberta

Marty Moore
Barrister & Solicitor

White Fish Lake 128, IRI (Indian
reserve)
Alberta
[Census subdivision]

Alberta
[Province]

	Total	Male	Female	Total	Male	Female
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Characteristic

Counts (unless otherwise specified)

Household and dwelling characteristics

Total - Occupied private dwellings by structural type of dwelling - 100% data ⁵	290	...(not applicable)	...(not applicable)	1,527,675	...(not applicable)	...(not applicable)
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White Fish Lake 128, IRI (Indian
reserve)

Alberta

Alberta

[Census subdivision]

[Province]

Total

Male

Female

Total

Male

Female

Characteristic

Counts (unless otherwise specified)

Single-detached house	270	....(not applicable)	....(not applicable)	946,225	....(not applicable)	....(not applicable)
Apartment in a building that has five or more storeys	0	....(not applicable)	....(not applicable)	62,395	....(not applicable)	....(not applicable)
Other attached dwelling ⁶	0	....(not applicable)	....(not applicable)	471,090	....(not applicable)	....(not applicable)
Semi-detached house	0	....(not applicable)	....(not applicable)	86,765	....(not applicable)	....(not applicable)
Row house	0	....(not applicable)	....(not applicable)	116,625	....(not applicable)	....(not applicable)
Apartment or flat in a duplex	0	....(not applicable)	....(not applicable)	43,090	....(not applicable)	....(not applicable)
Apartment in a building that has fewer than five storeys	0	....(not applicable)	....(not applicable)	223,360	....(not applicable)	....(not applicable)
Other single-attached house	0	....(not applicable)	....(not applicable)	1,245	....(not applicable)	....(not applicable)
Movable dwelling ²	20	....(not applicable)	....(not applicable)	47,970	....(not applicable)	....(not applicable)

White Fish Lake 128, IRI (Indian
reserve)
Alberta
[Census subdivision]

Alberta
[Province]

Characteristic	Total	Male	Female	Total	Male	Female
Counts (unless otherwise specified)						
Total - Private households by household size - 100% data ⁸	290	....(not applicable)	....(not applicable)	1,527,675	....(not applicable)	....(not applicable)
1 person	35	....(not applicable)	....(not applicable)	366,080	....(not applicable)	....(not applicable)
2 persons	50	....(not applicable)	....(not applicable)	524,415	....(not applicable)	....(not applicable)
3 persons	35	....(not applicable)	....(not applicable)	245,075	....(not applicable)	....(not applicable)
4 persons	45	....(not applicable)	....(not applicable)	233,770	....(not applicable)	....(not applicable)
5 or more persons	130	....(not applicable)	....(not applicable)	158,335	....(not applicable)	....(not applicable)
Number of persons in private households	1,300	....(not applicable)	....(not applicable)	3,978,145	....(not applicable)	....(not applicable)
Average household size	4.5	....(not applicable)	....(not applicable)	2.6	....(not applicable)	....(not applicable)
Marital status						
Total - Marital status for the population aged 15 years and over - 100% data ⁹	900	460	440	3,288,020	1,639,835	1,648,185

White Fish Lake 128, IRI (Indian
reserve)
Alberta
[Census subdivision]

Alberta
[Province]

	Total	Male	Female	Total	Male	Female
Characteristic	Counts (unless otherwise specified)					
Married or living common law	385	195	195	1,969,300	988,410	980,895
Married	170	90	85	1,648,945	828,155	820,790
Living common law	215	110	110	320,350	160,250	160,100
Not married and not living common law	520	270	245	1,318,720	651,430	667,290
Never married	435	240	195	905,700	505,310	400,390
Separated	30	20	10	76,150	34,000	42,150
Divorced	15	5	5	195,850	82,040	113,815
Widowed	40	5	35	141,020	30,080	110,940
Family characteristics						
Total - Census families in private households by family size - 100% data ¹⁰	335	....(not applicable)	....(not applicable)	1,114,585	....(not applicable)	....(not applicable)
2 persons	125	....(not applicable)	....(not applicable)	540,850	....(not applicable)	....(not applicable)
3 persons	90	....(not applicable)	....(not applicable)	235,245	....(not applicable)	....(not applicable)
4 persons	45	....(not applicable)	....(not applicable)	227,165	....(not applicable)	....(not applicable)

White Fish Lake 128, IRI (Indian
reserve)
Alberta
[Census subdivision]

Alberta
[Province]

	Total	Male	Female	Total	Male	Female
Characteristic	Counts (unless otherwise specified)					
5 or more persons	75	....(not applicable)	....(not applicable)	111,330	....(not applicable)	....(not applicable)
Average size of census families	3.5	....(not applicable)	....(not applicable)	3.0	....(not applicable)	....(not applicable)
Total number of census families in private households - 100% data ¹¹	335	....(not applicable)	....(not applicable)	1,114,585	....(not applicable)	....(not applicable)
Total couple families	190	....(not applicable)	....(not applicable)	953,325	....(not applicable)	....(not applicable)
Married couples	80	....(not applicable)	....(not applicable)	793,195	....(not applicable)	....(not applicable)
Common-law couples	105	....(not applicable)	....(not applicable)	160,130	....(not applicable)	....(not applicable)
Total lone-parent families by sex of parent	145	....(not applicable)	....(not applicable)	161,260	....(not applicable)	....(not applicable)
Female parent	105	....(not applicable)	....(not applicable)	123,490	....(not applicable)	....(not applicable)
Male parent	40	....(not applicable)	....(not applicable)	37,770	....(not applicable)	....(not applicable)

White Fish Lake 128, IRI (Indian
reserve)
Alberta
[Census subdivision]

Alberta
[Province]

Characteristic	Total	Male	Female	Total	Male	Female
Counts (unless otherwise specified)						
Total - Couple census families in private households - 100% data	190	....(not applicable)	....(not applicable)	953,325	....(not applicable)	....(not applicable)
Couples without children	55	....(not applicable)	....(not applicable)	443,665	....(not applicable)	....(not applicable)
Couples with children	135	....(not applicable)	....(not applicable)	509,655	....(not applicable)	....(not applicable)
1 child	45	....(not applicable)	....(not applicable)	190,010	....(not applicable)	....(not applicable)
2 children	35	....(not applicable)	....(not applicable)	213,910	....(not applicable)	....(not applicable)
3 or more children	55	....(not applicable)	....(not applicable)	105,735	....(not applicable)	....(not applicable)
Total - Lone-parent census families in private households - 100% data	145	....(not applicable)	....(not applicable)	161,260	....(not applicable)	....(not applicable)
1 child	70	....(not applicable)	....(not applicable)	97,180	....(not applicable)	....(not applicable)
2 children	45	....(not applicable)	....(not applicable)	45,235	....(not applicable)	....(not applicable)

White Fish Lake 128, IRI (Indian
reserve)
Alberta
[Census subdivision]

Alberta

[Province]

	Total	Male	Female	Total	Male	Female
Characteristic	Counts (unless otherwise specified)					
3 or more children	30	....(not applicable)	....(not applicable)	18,845	....(not applicable)	....(not applicable)
Total - Persons not in census families in private households - 100% data	140	75	65	678,535	356,875	321,655
Household type						
Total - Private households by household type - 100% data ¹²	290	....(not applicable)	....(not applicable)	1,527,675	....(not applicable)	....(not applicable)
One-census-family households	180	....(not applicable)	....(not applicable)	1,039,985	....(not applicable)	....(not applicable)
Without children in a census family ¹³	25	....(not applicable)	....(not applicable)	414,570	....(not applicable)	....(not applicable)
With children in a census family ¹⁴	155	....(not applicable)	....(not applicable)	625,415	....(not applicable)	....(not applicable)
Multiple-census-family households	70	....(not applicable)	....(not applicable)	36,120	....(not applicable)	....(not applicable)
Non-census-family households	40	....(not applicable)	....(not applicable)	451,570	....(not applicable)	....(not applicable)

**White Fish Lake 128, IRI (Indian
reserve)
Alberta
[Census subdivision]**

Alberta

[Province]

	Total	Male	Female	Total	Male	Female
Characteristic	Counts (unless otherwise specified)					
One-person households	35	....(not applicable)	....(not applicable)	366,080	....(not applicable)	....(not applicable)
Two-or-more person non-census-family households	5	....(not applicable)	....(not applicable)	85,490	....(not applicable)	....(not applicable)

Data quality: White Fish Lake 128, Indian reserve [Census subdivision], Alberta

- Global non-response rate (GNR), short-form census questionnaire: 3.0%
- Data quality index showing a short-form income non-response rate higher than or equal to 10%, but lower than 20%.
- Global non-response rate (GNR), long-form census questionnaire: 2.1%
- Data quality index showing a long-form income non-response rate higher than or equal to 10%, but lower than 20%.

Data quality: Alberta [Province]

- Excludes census data for one or more incompletely enumerated Indian reserves or Indian settlements.

- Global non-response rate (GNR), short-form census questionnaire: 4.7%
- Global non-response rate (GNR), long-form census questionnaire: 6.1%

Symbol(s):

... not applicable

Note(s):

5 Total - Occupied private dwellings by structural type of dwelling - 100% data

'Structural type' refers to the structural characteristics and/or dwelling configuration, that is, whether the dwelling is a single-detached house, an apartment in a high-rise building, a row house, a mobile home, etc.

6 Other attached dwelling

The category 'Other attached-dwelling' is a subtotal of the following categories: semi-detached house, row house, apartment or flat in a duplex, apartment in a building that has fewer than five storeys and other single-attached house.

7 Movable dwelling

The category 'Movable dwelling' includes mobile homes and other movable dwellings such as houseboats, recreational vehicles and railroad cars.

- 8 Total - Private households by household size - 100% data
Household size refers to the number of persons in a private household.
- 9 Total - Population aged 15 years and over by marital status - 100% data
For more information, refer to the Census Dictionary: Marital status.
- 10 Total - Census families in private households by family size - 100% data
Census family is defined as a married couple (with or without children of either and/or both spouses), a common-law couple (with or without children of either and/or both partners) or a lone parent of any marital status, with at least one child living in the same dwelling. For more information, refer to the Census Dictionary: Census family structure.
- 11 Total number of census families in private households - 100% data
'Census family structure' refers to the combination of relatives that comprise a census family. Classification on this variable considers the presence or absence of: married spouses or common-law partners and children.
- 12 Total - Private households by household type - 100% data
For more information, refer to the Census Dictionary: Household type.

- 13 One-census-family households - Without children in a census family
The household includes a single couple (without children). Other persons related or unrelated to the couple may also be present.
- 14 One-census-family households - With children in a census family
The household includes either a couple with children or a lone parent and his or her children. Other persons related or unrelated to the census family may also be present.

Source: Statistics Canada, 2016 Census of Population.

How to cite: Statistics Canada. 2017. *White Fish Lake 128, IRI (Indian reserve) [Census subdivision], Alberta and Alberta [Province] (table). Census Profile. 2016 Census. Statistics Canada Catalogue no. (number) 98-316-X2016001. Ottawa. Released November 29, 2017.*
<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/index.cfm?Lang=E> (accessed August 23, 2021).

Date modified:

2019-08-09

Court File No.: T-808-21

FEDERAL COURT

BETWEEN :

LORNA JACKSON-LITTLEWOLFE

Applicant

- and -

WHITEFISH LAKE FIRST NATION #128

Respondents

AFFIDAVIT OF ERNEST HOULE

SWORN ON NOVEMBER 13, 2021

I, Ernest Houle, of Whitefish Lake First Nation #128, Alberta, SWEAR THAT:

1. I am a Cree man with status under the *Indian Act*. I am a member of the Whitefish Lake First Nation #128 ("Whitefish Lake"). I have personal knowledge of the facts herein deposed except where based on information and belief, in which case I verily believe the same to be true.

Personal Background

2. I was born on Marcy 27, 1955. My parents are Albert and Myrtle Houle who were members and residents of Whitefish Lake.
3. My father was Chief of Whitefish Lake from 1969-72 and remained on Council until 1987. Because of this I gained familiarity with the leadership and governance at Whitefish Lake. Further, I was elected Chief for 1987-90 and remained on Council until 2002, and gained further knowledge of the governance practices of Whitefish Lake and other First Nations.
4. My knowledge of the history, traditions and customs of our band also comes from listening to elders including my grandparents.

Historical Selection of Leaders

5. From listening to elders, I understand that the traditional qualifications for selecting leaders were whether the leader could provide for and protect the people. Our first chief, James Seenum, also known as Chief Pakun, was a large and strong person and a great hunter.
6. The marital status of a person was not a traditional qualification for leadership.

Common Law Marriage Prohibition

7. I do not believe the prohibition on persons in common law relationships from running for election reflects traditional practices or customs of the band.
8. To my knowledge, all other Cree bands who signed Treaty 6 allow people in common law relationships to run for election. I have never understood or heard it claimed by elders that the prohibition on people in common law relationships running for election formed part of the written or oral agreements of Treaty 6.
9. In my view, the prohibition on persons in common law relationships from running for election is not related to an individual's leadership skills, knowledge of the traditional territory, communication skills or service within the community.

Application of the Prohibition

10. In my view the prohibition on persons in common law relationships from running for election has been applied in an arbitrary fashion, depending on who runs and whether they are in favour with the right people.
11. For example, in 1987, Charles Favel was permitted to run for election at Whitefish Lake despite the fact that he was in a common law relationship at the time. In a band meeting, I and others noted that this was a precedent.
12. However, in the very next election in 1990, Dean Michael Cardinal was prohibited from running in the election, because he was viewed as being in a common law marriage. Although Mr. Cardinal had not had a religious marriage, he had in fact been joined to his partner in a traditional buffalo rope ceremony. This traditional ceremony was not recognized. Later, Mr. Cardinal in fact did get legally married and was then permitted to run in the next election.

13. Since Saddle Lake and Whitefish Lake are one band under the *Indian Act* and we have shared the same election code with the same common law marriage prohibition provision, the application of the prohibition at Saddle Lake is relevant.
14. I am aware that in 2013, Shannon Houle was permitted to run in the Saddle Lake election even though she was in a common law relationship. She won a seat on Council. However, when she sought to run again in 2016, she was excluded and joined litigation against the election code.

Conclusion

15. Prior to the past election, I engaged in detailed conversations about governance issues with a significant portion of Whitefish Lake band members. From these and other conversations, I am quite certain that the majority of the band members are opposed to prohibiting those in common law relationships from running for election. As band members, our understanding has for years been that if the prohibition was challenged in court, it would be struck down. Reasons why the prohibition was not challenged earlier include the risk that those who challenge it would face bullying and the fact that the majority of band members lack the financial means to retain a lawyer to legally challenge the prohibition.
16. Maintaining the prohibition gives the impression that Whitefish Lake is above the law.

SWORN BEFORE ME at
Edmonton, Alberta,
this 12th day of November, 2021.



Rod Wiltshire, Barrister and Solicitor

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Ernest Houle

Court File No.: T-808-21

FEDERAL COURT

BETWEEN:

LORNA JACKSON-LITTLEWOLFE

Applicant

- and -

WHITEFISH LAKE FIRST NATION #128

Respondents

AFFIDAVIT OF MARVIN SIMON SPARKLINGEYES

SWORN ON NOVEMBER 12, 2021

I, Marvin Simon Sparklingeyes, of Whitefish Lake First Nation #128, Alberta, SWEAR THAT:

1. I am a Cree man with status under the *Indian Act*. I am a member and elder of the Whitefish Lake First Nation #128 ("Whitefish Lake"). I have personal knowledge of the facts herein deposed except where based on information and belief, in which case I verily believe the same to be true.

Personal Background

2. I was born on February 12th, 1948. I am also the father of Lorna Jackson-Littlewolfe. My parents were Marcus and Florence Sparklingeyes who were members and residents of Whitefish Lake. My mother was the daughter of Marley Steinhauer, who was the son of Sammy Steinhauer, who was the son of Henry Bird Steinhauer.
3. My knowledge of the history, traditions and customs of our band comes from stories passed down to me from my family members and other Elders, as well as from my personal experiences and observations, including as Chief from 1981-84 and as a Council Member from 1990-93.

Brief History

4. In 1853 or 1854, Henry Bird Steinhauer joined and was accepted into the band led by James Seenum (also known as Chief Pakun), who was the hereditary chief of the people of the people of Whitefish Lake.
5. Henry Bird Steinhauer was a Christian and began to teach Christianity to Pakun's people.
6. Pakun's people were living in the area of Lac La Biche, but in 1855 on advice from Henry Bird Steinhauer, Chief Pakun lead his people away from the Lac La Biche area in order to avoid violent conflict that was occurring with Metis people there.
7. Pakun's people settled in the present area of Whitefish Lake, where they built cabins and settled, planting gardens and grain, and raising livestock.
8. I recall in 1955 when I was seven years old that I attended the celebration of the 100th anniversary of the Whitefish Lake community and church.
9. When Chief Pakun joined Treaty 6, clauses concerning education, the medicine chest and ploughs were added since these matters were important to what was already occurring at Whitefish Lake.
10. Chief Pakun died in 1917. His son Edward Seenum then became hereditary chief. However, in 1923, Edward Seenum left his wife to go live with another woman. My father was alive during this time, and I learned about the leadership events from him. I understand this action caused the band members to no longer want Edward Seenum to be Chief. I further understand that these actions of Edward Seenum offended the Christian beliefs of many band members.
11. In 1925, the younger brother of Edward Seenum, namely David Seenum, became the hereditary chief until his death in 1941.
12. In 1941, Reuben Bull became the hereditary chief.
13. In 1951, the people wanted an election, and Reuben Bull was then elected as chief. This was the first election held for the band, whereas prior leaders had always been appointed through our traditional hereditary chief system.
14. In 1953, the people of Whitefish Lake and the people of Saddle Lake met at the Hall in Spedden to vote on the first draft of an election law (later additions were when Indian Affairs got involved in about 1958 and added further provisions).

15. At the meeting in 1953 is when the prohibition on persons in common law relationships running for election was adopted. I understand that this provision was adopted because the people remembered the actions of Edward Seenum in leaving his wife to go live with another woman and that this violated their Christian faith. I do not believe the prohibition was adopted on the basis that it reflected traditional practices or customs of the band.
16. I do not believe this prohibition was related to any traditional practices or customs Pakun's people held prior to contact with European people or that existed when Treaty 6 was signed in 1876. Further, I do not believe that recognition or protection of this prohibition formed part of the written or oral terms of Treaty 6.
17. I do not believe that the prohibition on persons in common law relationships from for election is related to an individual's leadership skills, knowledge of the traditional territory, communication skills or service within the community.

Saddle Lake and Whitefish Lake

18. Saddle Lake and Whitefish Lake First Nations used to hold joint council meetings, all the way back to when Rueben Bull was Chief. Saddle Lake and Whitefish Lake each had their own chiefs.
19. Prior to 1976, all the funding and administration even for Whitefish Lake was done in Saddle Lake. However, in 1976, Chief Sam Bull of Whitefish Lake and Chief Eugene Steinhauer came up with an agreement to hold six common issues for discussion on joint council but each band would look after its own administration and Whitefish Lake would receive its proportion of funding directly.
20. One of the six common issues to be addressed in joint council meetings with Whitefish Lake and Saddle Lake is the Tribal Customs Election Code.
21. In 2014, Saddle Lake was still utilizing this shared election code and an individual in a common law relationship was not only permitted to run, but was in fact elected to Council, in open disregard of the elections code.
22. After 2017, Saddle Lake began to hold meetings to change the election code and they asked Whitefish Lake leadership to join in changing the election code. I went to several of these meetings. In one meeting on March 6, 2019, held at Whitefish Lake, Saddle

Lake's chief Eddie Makokis, told Stan Houle, a Whitefish Lake council member at the time (and now chief) currently, "if you want to do your own election law, give us a band council resolution and we'll go from there", as I recall.

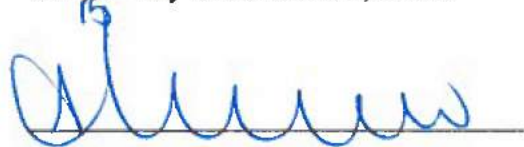
23. I understand that Saddle Lake has now adopted an elections code that does not include a prohibition on persons common law relationships from standing for election.

View of the Community

24. While the prohibition on people in common law marriages from running for election worked at one time, I believe now that this prohibition is against the views of the majority of people in the community. I am even aware of some people who do not vote because they don't believe our elections are fair because people are not being treated equally. We are also aware that this prohibition is a violation of human rights and the rights and freedoms of people under the Constitution.

SWORN BEFORE ME at

St. Paul, Alberta,
this 12th day of November, 2021.



Commissioner for Oaths in and for the
Province of Alberta



Marvin Simon Sparklingeyes

AMBER LEE ROGALSKI

A Commissioner for Oaths
in and for Alberta

My Commission Expires Nov. 26, 2023


Action No. T-808-21

FEDERAL COURT**BETWEEN:****LORNA JACKSON-LITTLEWOLFE****Applicants****- and -****WHITEFISH LAKE FIRST NATION #128 and SADDLE LAKE CREE NATION #462****Respondents****RULE 318 CERTIFIED RECORD
WHITEFISH LAKE FIRST NATION #128**

This is filed pursuant to the Applicant's request under Rule 317 of the *Federal Courts Rules* that the tribunal whose order is the subject of this Application send a certified copy of material, relevant to the matters set out in the Notice of Application, that are not in the possession of the Applicant.

I, Ian Bailey, certified that all of the materials listed in Schedule "A" and attached to this Certificate were before the Appeal Committee of the Whitefish Lake First Nation #128, in making the decision that is the subject of this Application.

Dated June 9, 2021



Ian Bailey
Barrister and Solicitor
Bailey & Wadden LLP

June 11, 2021

Table of Contents**Schedule A**

Tab A	Letter to Lorna Jackson-Littlewolfe – April 20,2021
Tab B	Letter to Lorna Jackson-Littlewolfe – April 21,2021
Tab C	Email to Lorna Jackson-Littlewolfe – April 20, 2021
Tab D	Election Regulations

TAB

A



April 20, 2021

To: Lorna Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 19, 2021 in the Council Chambers to address letters protesting candidates. In accordance to the Tribal Custom Electoral Bylaw Section 1(c), it has been determined that you are not an eligible candidate for the 2021 Elections, as you are in a common law relationship.

Based on the above, the Appeals Committee has ruled that you are not an eligible candidate; signed by the signatures below appearing:



Ed Cardinal



Doreen Jackson



Rena Sparklingeyes



Kim Memnook



Mary-Anne Sparklingeyes

TAB

B



Box 271 Goodfish Lake, AB T0A 1R0

April 21, 2021

To: Lorna Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 20, 2021 in the Council Chambers to address your eligibility.

As discussed last evening in the Council Chambers that you are not eligible to run in the Whitefish Lake Band #128 Elections 2021 pursuant to Section 1(c) of the Tribal Custom Election Bylaw.

We have come to a conclusion that we are going to uphold the requirement of the Tribal Custom Elections, which deems that you are not eligible.

Based on the above, we have made a final decision to omit your name from the list of candidates who are eligible to run.\



Ed Cardinal

Elections Committee Chairperson

TAB

C

Meeting with Appeals Committee

Gas Utility [REDACTED]

Tue 4/20/2021 4:35 PM

To: [REDACTED]

Please be advised that there has been a written letter of appeal forwarded to the Appeals Committee regarding your eligibility run in in the 2021 Whitefish Lake First Nation #128 Elections. Section 1 (C) of the Nations Electoral By-law has been cited and referenced as the basis for your eligibility.

To this end , we are seeking an audience with you today April 29th/2021 in the Tribal Council Chambers to discuss our decision relative to this matter.

Kind Regards

Ed Cardinal

Chairman Appeals Committee

Cc. Evan Steinhauer , Doreen Jackson , Rena Sparklingeyes , Kim Faithful , Maryann Sparklingeyes

Sent from [Outlook](#)

TAB

D

THE FOLLOWING HAS BEEN TAKEN FROM THE MINUTES OF THE BAND MEETINGS HELD ON THE SADDLE LAKE RESERVE IN 1955 AND 1960. ALL AREAS NOT COVERED BY THE OUTLINE HEREIN SHALL BE COVERED UNDER THE INDIAN ACT, AS SPELLED OUT IN SECTION 73 TO 78.

Denis Leroux (copy)

ELECTION REGULATIONS

Section (1):

Eligibility for Nomination:

- (a) No person who is a Civil Servant shall be eligible to be nominated.
- (b) No person can be nominated for an election if absent, unless he/she has signified in writing his/her acceptance of the nomination.
- (c) No person living in a Common Law marriage shall be eligible for nomination.
- (d) No person who maintains his/her home off the Reserve shall be eligible for nomination. (If he/she has his/her main place of residence or his/her family on the Reserve and works off the Reserve, he/she shall become eligible. However, he/she is allowed to miss only one regular meeting, except for illness.
- (e) No person convicted under the Criminal Code of Canada shall be eligible for nomination.
- (f) No person under the age of 21, as of the day of nomination, shall be eligible to nominate or be nominated.
- (g) No nomination is valid without a seconder.

Section (2):

Voting Regulations:

- (a) Any Band member, over the age of 21 years, on the day of the election, whether living on the Reserve or not, shall be eligible to cast a vote; with the exception of Red Ticket Indians.
- (b) Residents of the Goodfish Lake Reserve shall not be allowed to vote for a Chief or Councillor on the Saddle Lake Reserve.
- (c) Residents of the Saddle Lake Reserve shall not be allowed to vote for a Chief or Councillor on the Goodfish Lake Reserve.
- (d) A person who is not a resident of either Reserve, but who is a member of the Band, may vote once on the Reserve of his/her choice.

Section (3):

Election Procedural Regulations:

- (a) Chief and Councillor are elected for a three-year term.
- (b) There shall be nine Councillors for the Saddle Lake Reserve.
- (c) There shall be four councillors for the Goodfish Lake Reserve.
- (d) The election of the Chief shall be held pursuant to the election of the Councillors and the Chief shall come from among the elected Councillors.
- (e) There shall be an interpreter* (one for the Saddle Lake Reserve and one for the Goodfish Lake Reserve) appointed at a Band meeting for both the nomination and election days.
- (f) A Councillor or Chief guilty of improper conduct who has had a petition requesting his/her removal, signed by 60% of the resident members of the Reserve, shall be so dismissed by the Incumbent Electoral Officer and a bi-election shall be called to fill the vacancy.

- (g) The District Supervisor is the permanent Electoral Officer and it shall be his responsibility for the calling of elections at the end of each three-year term. His method of conducting nomination meetings (except for the closing of it), the secret ballot, the opening, closing, and counting of the ballots shall be the same as set forth in the Band Election Act, Section 73, of the Indian Act, as long as they do not conflict with any regulations, rules or ordinances passed by the Band. The Electoral Officer is authorized to appoint Poll Clerks, and authorized to pay the cost of the election from Band funds after the count has been submitted to Council and approved.

*This not possible
any more as
Dist Officer has
no authority
to make decision
should appeal
be requested.
This is Chief's Council
authority*

- * Interpreter: shall be a person who can effectively interpret from the Cree language into the English language and from the English language into the Cree language. This person shall not be a member of the Saddle Lake Band. He/She shall be paid at a rate set by the Band Council.

Special Nomination Meeting Procedures

No person other than an elector who resides in a section may be nominated for the office of councillor to represent that section on the council.

Indian act. Section 75, sub, "1".

No person may be a candidate for election as chief or councillor unless his name is set in nomination and seconded by persons who are themselves eligible to be nominated. *Indian Act Section 75, sub "2", R.S., c 149, s 74.

Court File No.: T-808-21

FEDERAL COURT

B E T W E E N :

LORNA JACKSON-LITTLEWOLFE

Applicant

- and -

WHITEFISH LAKE FIRST NATION #128

Respondents

APPLICANT'S MEMORANDUM OF FACT AND LAW

**JUSTICE CENTRE FOR
CONSTITUTIONAL FREEDOMS**

Marty Moore
#235, 7620 Elbow Dr SW
Calgary, ABV T2V 1K2



Counsel for the Applicant

BAILEY & WADDEN LLP

Ian Bailey/Joseph Wadden
2300, 10004 – 104 Ave
Edmonton, AB T5J 0K1



Counsel for the Respondent

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OVERVIEW

1. This Application challenges overt discrimination by the Whitefish Lake First Nation #128 (“WLFN”) prohibiting band members in common law relationships from running for election to serve on Council or as Chief (the “Common Law Marriage Prohibition”).
2. The Common Law Marriage Prohibition was implemented by WLFN in the 1950s and imposes a religious moral obligation on potential election candidates. It is not rooted in traditional practices or customs of WLFN, nor is it related to a potential candidates’ fitness to hold a leadership position at WLFN. Although WLFN has indicated an intention to argue that the Common Law Marriage Prohibition is shielded from *Charter* scrutiny by section 25, it has failed to provide any evidence showing that the Common Law Marriage Prohibition is an aboriginal, treaty or other right or freedom pertaining to WLFN.
3. The Common Law Marriage Prohibition persists to this day, despite that fact that a majority of WLFN members in conjugal relationships are common law rather than married.
4. The Applicant, Lorna Jackson-Littlewolfe, was nominated as a candidate in the 2021 elections for WLFN Chief and Council. Her candidacy was challenged because she was alleged to be in a common law relationship. She faced scrutiny of her intimate life by a WLFN Appeals Committee, before admitting that she was in fact in a common law relationship with her spouse. The Appeals Committee deemed her ineligible to run as a candidate solely on the basis of her marital status (the “Decision”).
5. Ms. Jackson-Littlewolfe, and hundreds of other band members in common law relationships, are treated as lesser members for not adhering to the morality dictated by the Common Law Marriage Prohibition. They are denied full participation in the governance of WLFN despite living at WLFN and being directly affected by the decisions of it Chief and Council.
6. Ms. Jackson-Littlewolfe challenges the Common Law Marriage Prohibition and the Decision on the basis that they violate her equality rights guaranteed by section 15(1) of the *Canadian Charter of Rights and Freedoms* without justification. She requests that this Court declare the Common Law Marriage Prohibition to be of no force or effect, and order a new election – free of discrimination – within 60 days the Court’s decision.

PART I: FACTS

7. The Respondent, WLFN, is part of the Saddle Lake Cree Nation #462, which includes both the WLFN and Saddle Lake First Nation #125 ("SLFN").¹ WLFN and SLFN are recognized as a single band called Saddle Lake Cree Nation #462² pursuant to the *Indian Act*, but they retain separate Chiefs and Councils.³
8. Lorna Jackson-Littlewolfe is a Cree woman, a mother, a grandmother, and a member of WLFN, where she lives with her common law spouse.⁴ She is also a keen observer of local and national politics, particularly in relation to matters that affect her community.⁵ After being encouraged to run for office by several WLFN members, including Elders, Ms. Jackson-Littlewolfe sought nomination as a candidate in the 2021 Elections for Council and Chief.⁶

Decision to deem Ms. Jackson-Littlewolfe an ineligible candidate

9. Ms. Jackson-Littlewolfe attended the WLFN nomination meeting for the 2021 Elections on April 15, 2021, and her nomination was accepted at that meeting.⁷
10. On the afternoon of April 20, 2021, Ms. Jackson-Littlewolfe received an e-mail from Ed Cardinal, the Chair of WLFN's Election Appeals Committee.⁸ The e-mail stated:

Please be advised that there has been a written letter of appeal forwarded to the Appeals Committee regarding your eligibility run in in [sic] the 2021 Whitefish Lake First Nation #128 Elections. Section 1 (C) of the Nations Electoral By-law has been cited and referenced as the basis for your eligibility.

¹ Affidavit of Lorna Jackson-Littlewolfe ("Jackson-Littlewolfe Affidavit"), paras 13, 15, AR tab 5, AR018.

² Saddle Lake Cree Nation #462 ("SLCN") was initially named in this Application but was removed by Order of Madam Prothonotary Martha Milczynski on July 6, 2021, citing the position of SLCN: "the SLCN has advised that its position is that they are not directly affected by the relief sought, this application for judicial review does not impact the SLCN, and SLCN no longer uses the Election Regulations. The SLCN has advised that they do not wish to be a Respondent in this proceeding".

³ Affidavit of Marvin Simon Sparklingeyes ("Sparklingeyes Affidavit"), para 18, AR Tab 9, AR181.

⁴ Jackson-Littlewolfe Affidavit, paras 1-2, 5-12, 40, AR tab 5, AR016- AR017, AR022.

⁵ Jackson-Littlewolfe Affidavit, paras 7-12, AR tab 5, AR017.

⁶ Jackson-Littlewolfe Affidavit, paras 40, 48-59, AR tab 5, AR022, AR023-AR025.

⁷ Jackson-Littlewolfe Affidavit, paras 53-59, AR tab 5, AR024 – AR025.

⁸ Jackson-Littlewolfe Affidavit, para 61, AR Tab 5, AR025; Exhibit BB, AR tab 5BB, AR138.

To this end , we are seeking an audience with you today April 29th/2021 [sic] in the Tribal Council Chambers to discuss our decision relative to this matter.

Kind Regards
Ed Cardinal
Chairman Appeals Committee

11. Ms. Jackson-Littlewolfe met with the Committee that night.⁹ She received an initial letter, which was then corrected by the Committee.¹⁰ The corrected letter communicated the Decision of the Committee as follows:

Please be advised that the Appeals Committee held a duly convened meeting on April 19, 2021 in the Council Chambers to address letters protesting candidates. In accordance to the Tribal Custom Electoral Bylaw Section 1(c), it has been determined that you are not an eligible candidate for the 2021 Elections, as you are in a common law relationship.

Based on the above, the Appeals Committee has ruled that you are not an eligible candidate; signed by the signatures below appearing:¹¹

12. During the Committee meeting, Mr. Cardinal told Ms. Jackson-Littlewolfe that her eligibility for candidacy was being appealed only on the basis that she was in a common law relationship.¹²
13. Ms. Jackson-Littlewolfe told the Committee that a court decision in 2017 had struck down the Election Regulation, and that Saddle Lake Cree Nation had implemented new election rules.¹³ Ms. Jackson-Littlewolfe requested that the Election Appeals Committee do the right thing, referring to her position that it was not appropriate to follow the Election Regulations and specifically the Common Law Marriage Prohibition.¹⁴
14. Mr. Cardinal responded that "it's already done," indicating that the Appeal Committee had already made its decision the previous day.¹⁵

⁹ Jackson-Littlewolfe Affidavit, para 63, AR tab 5, AR026.

¹⁰ Jackson-Littlewolfe Affidavit, paras 63-65, AR tab 5, AR026-AR027.

¹¹ Decision deeming Lorna Jackson-Littlewolfe not an eligible candidate for the 2021 Elections, April 20, 2021, AR tab 3, AR014.

¹² Jackson-Littlewolfe Affidavit, para 66, AR tab 5, AR027.

¹³ Jackson-Littlewolfe Affidavit, para 75, AR tab 5, AR028.

¹⁴ Jackson-Littlewolfe Affidavit, para 76, AR tab 5, AR028.

¹⁵ Jackson-Littlewolfe Affidavit, para 78, AR tab 5, AR028.

15. The next day, Ms. Jackson-Littlewolfe asked Mr. Cardinal for a letter outlining the Decision. Mr. Cardinal provided a letter later that day, which stated:

To: Lorna Jackson-Littlewolfe

Please be advised that the Appeals Committee held a duly convened meeting on April 20, 2021 in the Council Chambers to address your eligibility.

As discussed last evening in the Council Chambers that you are not eligible to run in the Whitefish Lake Band #128 Elections 2021 pursuant to Section 1(c) of the Tribal Custom Election Bylaw.

We have come to a conclusion that we are going to uphold the requirement of the Tribal Custom Elections, which deems that you are not eligible.

Based on the above, we have made a final decision to omit your name from the list of candidates who are eligible to run.¹⁶

16. Ms. Jackson-Littlewolfe, through her counsel, requested unsuccessfully that WLFN cease discriminating against election candidates on the basis of their marital status and that Ms. Jackson-Littlewolfe be permitted to stand as a candidate in the April 29, 2021 election.¹⁷

Common Law Marriage Prohibition

17. The Saddle Lake Tribal Customs (“Election Regulations”) were created between 1953 and 1960.¹⁸ These Election Regulations, which included the disputed Common Law Marriage Prohibition, applied to the “Saddle Lake Reserve”, now known as SLFN, and the “Goodfish Lake Reserve”, now known as WLFN.¹⁹
18. Elder Marvin Simon Sparklingeyes has knowledge of WLFN’s history, traditions and customs from stories passed down to him from family members and other Elders, and also from his own experience, including as Chief and a Council Member for WLFN.²⁰ He described the genesis of the Common Law Marriage Prohibition in his affidavit. He recounts a seminal occurrence in 1923 following the death of WLFN’s hereditary Chief Pakun:

¹⁶ Letter Confirming Decision and Election Regulations, April 21, 2021, AR tab 4, AR015

¹⁷ Jackson-Littlewolfe Affidavit, para 81, AR Tab 5, AR029; Exhibit KK, AR tab 5KK, AR162-AR163.

¹⁸ Saddle Lake Tribal Customs Election Regulations, AR tab 2, AR010; Sparklingeyes Affidavit, paras 14-15, AR tab 8, AR180-AR181.

¹⁹ Saddle Lake Tribal Customs Election Regulations, AR tab 1, AR010-AR012.

²⁰ Sparklingeyes Affidavit, para 3, AR tab 8, AR179.

10. Chief Pakun died in 1917. His son Edward Seenum then became hereditary chief. However, in 1923, Edward Seenum left his wife to go live with another woman. My father was alive during this time, and I learned about the leadership events from him. I understand this action caused the band members to no longer want Edward Seenum to be Chief. I further understand that these actions of Edward Seenum offended the Christian beliefs of many band members.²¹
19. Mr. Sparklingeyes further relates how this event impacted the creation of the Common Law Marriage Prohibition in the 1950s when the WLFN was creating election laws after choosing to elect chiefs rather than following the traditional hereditary chief system:
14. In 1953, the people of Whitefish Lake and the people of Saddle Lake met at the Hall in Spedden to vote on the first draft of an election law (later additions were when Indian Affairs got involved in about 1958 and added further provisions).
15. At the meeting in 1953 is when the prohibition on persons in common law relationships running for election was adopted. I understand that this provision was adopted because the people remembered the actions of Edward Seenum in leaving his wife to go live with another woman and that this violated their Christian faith. I do not believe the prohibition was adopted on the basis that it reflected traditional practices or customs of the band.²²
20. Another Elder, Ernest Houle, provided an affidavit informed by his knowledge of WLFN's history, traditions and customs gained from listening to Elders, including his grandparents, his father who was Chief and a Council Member, and Mr. Houle's own personal experience, including as Chief and Council Member of WLFN.²³ Mr. Houle relates the arbitrary application of the Common Law Marriage Prohibition, including the fact that some people have been permitted to run despite being in a common law relationship if they were in favour with the right people. Mr. Houle further relates how the Common Law Marriage Prohibition was applied to require a religious or civil marriage ceremony:
12. ...Dean Michael Cardinal was prohibited from running in the election, because he was viewed as being in a common law marriage. Although Mr. Cardinal had not had a religious marriage, he had in fact been joined to his partner in a traditional buffalo rope ceremony. This traditional ceremony was not

²¹ Sparklingeyes Affidavit, para 10, AR tab 8, AR180.

²² Sparklingeyes Affidavit, para 14-15, AR tab 8, AR180-AR181.

²³ Affidavit of Ernest Houle ("Houle Affidavit), para 3-5, AR tab 7, AR176-AR177.

recognized. Later, Mr. Cardinal in fact did get legally married and was then permitted to run in the next election.²⁴

21. Both Mr. Sparklingeyes and Mr. Houle attest that the Common Law Marriage Prohibition is not related to an individual's leadership skills, knowledge of the traditional territory, communication skills or service within the community.²⁵

22. Mr. Sparklingeyes states:

16. I do not believe this prohibition was related to any traditional practices or customs Pakun's people held prior to contact with European people or that existed when Treaty 6 was signed in 1876. Further, I do not believe that recognition or protection of this prohibition formed part of the written or oral terms of Treaty 6.

23. Likewise, Mr. Houle states:

7. I do not believe the prohibition on persons in common law relationships from running for election reflects traditional practices or customs of the band.

8. To my knowledge, all other Cree bands who signed Treaty 6 allow people in common law relationships to run for election. I have never understood or heard it claimed by elders that the prohibition on people in common law relationships running for election formed part of the written or oral agreements of Treaty 6.

24. In 2017, the Federal Court determined that the Election Regulations inadequate, largely on the basis of their failure to address issues such as the nomination of an election/appeals committee.²⁶ The Court required Saddle Lake Cree Nation to develop a new process to determine the eligibility of candidates for election, review the eligibility of the applicants,

²⁴ Houle Affidavit, para 12, AR tab 7, AR177.

²⁵ Houle Affidavit, para 9, AR tab 7, AR177; Sparklingeyes Affidavit, para 17, AR tab 8, AR181.

²⁶ *Shirt v. Saddle Lake Cree Nation*, [2017 FC 364](#) [*Shirt*]; **Applicant's Book of Authorities ("ABOA")**, tab 1.

determine the eligibility of candidates for election, review the eligibility of the applicants, and if any applicants were deemed eligible, hold a new election.²⁷

25. WFLN leadership were asked to participate in the creation of a new election code.²⁸ Such joint action was required pursuant to a 1990 Joint Band Council Resolution from both WFLN and SLFN, which stated in relevant part:

WHEREAS, the Chiefs and Councils of the Saddle Lake Band of Indians which includes Whitefish Lake Band #128 are responsible for the peace, order and good government of the Bands and its membership; and

...

WHEREAS, the current election process under the Governance, jurisdiction and authority of those principles as identified as the Saddle Lake Tribal Customs; and

WHEREAS, it is unequivocally understood by both bands and its membership that the Saddle Lake Tribal Customs remain unaltered until such matters are clarified and ratified by both band memberships and by referendum; and

...

BE IT RESOLVED THAT:

A. It has been traditionally understood by tribal customs that both Chiefs and Councils must agree and decide on the six (6) common issues:

...

5. The changing of Tribal Customs would have to be agreed upon by both reserves.

...

B. Any Ad Hoc changes to any of the above common issues without proper consent by both band memberships will be declared null and void.

26. WFLN was initially involved in the process of creating a new election code following the 2017 Federal Court decision striking down the Election Regulations.²⁹ Ms. Jackson-Littlewolfe was one of the WFLN members appointed to serve on the WFLN Working Group to create a new election code.³⁰ Surveys of members were completed, including over 300 surveys of WFLN members.³¹ The WFLN Working Group was rather abruptly brought to an end in July 2018

²⁷ [Shirt](#) at paras 70, 72; **ABOA tab 1**.

²⁸ Sparklingeyes Affidavit, para 22, AR tab 8, AR181.

²⁹ Jackson-Littlewolfe Affidavit, para 19-24, AR tab 5, AR019.

³⁰ Jackson-Littlewolfe Affidavit, para 21-22, AR tab 5, AR019.

³¹ Jackson-Littlewolfe Affidavit, para 24, AR tab 5, AR019.

by WLFN leadership. WLFN members were still invited to participate³² and continued to participate³³ in the process of creating a new election law.

27. Subsequently, Saddle Lake Cree Nation adopted the *onihcikiskwapowin* – Tribal Customs Elections Code, which does not contain the Common Law Marriage Prohibition,³⁴ and held a new election in 2019 using this new election code.³⁵

PART II: ISSUES

28. The issues arising in this proceeding are as follows:

- a. Does the Common Law Marriage Prohibition and the Decision implementing it infringe the equality rights of Ms. Jackson-Littlewolfe and other WLFN members protected by section 15(1) of the *Charter*? If so, is the infringement justified under section 1 of the *Charter*?
- b. Is Common Law Marriage Prohibition's infringement of section 15(1) of the *Charter* justified under section 1?
- c. Is Decision's infringement of Ms. Jackson-Littlewolfe's equality rights justified under section 1 of the *Charter*?
- d. Is the Common Law Marriage Prohibition or the Decision protected from scrutiny by section 25 of the *Charter*?
- e. What remedies should this Court grant in the circumstances of this case?

³² Jackson-Littlewolfe Affidavit, para 34, AR tab 5, AR022; Exhibit I, AR tab 5, AR061; Exhibit O, AR tab 5O, AR075.

³³ Jackson-Littlewolfe Affidavit, paras 30-32, AR tab 5, AR020-AR021; Sparklingeyes Affidavit, para 22, AR tab 8, AR181.

³⁴ Jackson-Littlewolfe Affidavit, Exhibit Q, AR tab 5Q, AR084; Exhibit R, AR tab 5R, AR088; Exhibit S, AR tab 5S, AR096.

³⁵ Jackson-Littlewolfe Affidavit, para 30, AR Tab 5, AR020; Exhibit T, AR tab 5T, AR101.

PART III: SUBMISSIONS

Standards of Review

29. Whether the Common Law Marriage Prohibition infringes section 15(1) of the *Charter* is a question of law. Whether the infringement is justified is likewise a question of law reviewed pursuant to the *Oakes* test, with the burden of proof resting on WFLN.³⁶

30. Whether *Charter* rights were limited by the Decision is a question of their “definitional scope” that must be determined on the basis of correctness.³⁷ Likewise, the Decision’s failure to even consider the *Charter* protections limited by it attracts a correctness standard of review.³⁸

31. Normally, it falls on an applicant for judicial review to show that an administrative decision is unreasonable.³⁹ However, since the *Charter* rights of Ms. Jackson-Littlewolfe are limited by the Decision, the burden is on WFLN to show that its Decision is reasonable:

The onus is first on the Applicant to establish that its constitutionally enshrined freedom has been limited. The onus then shifts to the Respondent to establish that the limit was imposed in pursuit of its statutory objectives and that the Applicant’s [*Charter* freedom] was not limited more than reasonably necessary given those statutory objectives.⁴⁰

32. In determining whether WFLN has met this burden, the Court must consider whether the Decision proportionately balances the *Charter* protections it impairs with the applicable statutory objectives.

³⁶ *R. v. Oakes*, [1986] 1 S.C.R. 103 [*Oakes*], ABOA, tab 2.

³⁷ See *UAlberta Pro-Life v Governors of the University of Alberta*, 2020 ABCA 1 [*UAlberta*] at paras 30 and 170, ABOA, tab 3; see also *Mouvement laïque québécois v Saguenay (City)*, 2015 SCC 16 [*Mouvement laïque québécois*] at para 51, ABOA, tab 4.

³⁸ *Canadian Broadcasting Corporation v. Ferrier*, 2019 ONCA 1025 at paras 32-33, ABOA, tab 5.

³⁹ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para 100, ABOA, tab 6.

⁴⁰ *Canadian Centre for Bio-Ethical Reform v City of Peterborough*, 2016 ONSC 1972 at para 15, ABOA, tab 7; *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*], s 1, Appendix A, tab 1; see also *Doré v. Barreau du Québec*, 2012 SCC 12 [*Doré*] at para 66, ABOA, tab 8; *UAlberta*, at paras 161-62, ABOA, tab 3.

33. A failure to give effect as fully as possible to the *Charter* protections at stake⁴¹ constitutes a failure to engage in the required proportionate balancing, and shows that the limitation of those *Charter* protections is not “demonstrably justified in a free and democratic society.”⁴²

The Charter applies to the WLFN

34. WLFN is a *sui generis* government entity.⁴³ As a First Nation government, it exercises powers within the authority of Parliament,⁴⁴ and consequently is subject to the *Charter*⁴⁵ pursuant to section 32.

A. The Common Law Marriage Prohibition and the Decision implementing it violate Ms. Jackson-Littlewolfe’s equality rights protected by section 15(1) of the Charter

35. Everyone in Canada, including members of First Nations, have the right to be free from discrimination by government, pursuant to section 15(1) of the *Charter* which states:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

36. Marital status has long been recognized as an analogous ground on which section 15(1) prohibits discrimination, in part because “unmarried spouses have faced historical disadvantage stemming from societal prejudice.”⁴⁶

⁴¹ *Doré*, paras 57-58, **ABOA, tab 8**; *Law Society of British Columbia v. Trinity Western University*, [2018 SCC 32](#) [*LSBC v TWU*], at para 80, **ABOA, tab 9**, citing *Loyola High School v. Quebec (Attorney General)*, [2015 SCC 12](#) [*Loyola*], at para 39, **ABOA, tab 10**.

⁴² *Charter*, s 1, **Appendix A, tab 1**.

⁴³ See *Eldridge v. British Columbia (Attorney General)*, [\[1997\] 3 S.C.R. 624](#) at para 44, **ABOA, tab 11**; *Taypotat v. Taypotatat*, [2013 FCA 192](#) [*Taypotat*] at para 36, **ABOA, tab 12**, reversed on other grounds by *Kahkewistahaw First Nation v. Taypotat*, [2015 SCC 30](#) [*Kahkewistahaw*], **ABOA, tab 13**.

⁴⁴ *Constitution Act, 1867*, section 91(24).

⁴⁵ See *Godbout v. Longueuil (City)*, [\[1997\] 3 S.C.R. 844](#), para 48, **ABOA, tab 14**; *Dickson v. Vuntut Gwitchin First Nation*, [2021 YKCA 5](#), at paras 83-99, **ABOA, tab 15**; *Dickson v. Vuntut Gwitchin First Nation*, [2020 YKSC 22](#), at paras 121-31, **ABOA, tab 16**.

⁴⁶ See *Miron v. Trudel*, [1995] 2 S.C.R. 418 [Miron], **ABOA, tab 17**; *Quebec (Attorney General) v. A*, [2013 SCC 5](#) [*Quebec v. A*], at paras 316-318 (Abella J, dissenting in result but not on this point), **ABOA, tab 18**.

37. The Supreme Court of Canada in *Fraser* held that “[t]o prove a *prima facie* violation of s. 15(1), a claimant must demonstrate that the impugned law or state action:

- on its face or in its impact, creates a distinction based on enumerated or analogous grounds; and
- imposes burdens or denies a benefit in a manner that has the effect of reinforcing, perpetuating, or exacerbating disadvantage.⁴⁷

38. It is incontrovertible that the Common Law Marriage Prohibition and the Decision denying Ms. Jackson-Littlewolfe’s candidacy create an express distinction on the basis of the analogous ground of marital status.

39. Further, the Common Law Marriage Prohibition and the Decision impose on her the unconscionable burden of ending her common law relationship or forfeiting the chance to serve her community in an elected position.

40. The disadvantage this imposes on Ms. Jackson-Littlewolfe and others in common law relationships is very apparent: they are prohibited in running for election even if they meet all the other qualifications, in contrast to members not in common law relationships.

41. In considering how a measure reinforces, perpetuates, or exacerbates disadvantage, the goal is to examine the harm caused to the affected group, including the economic exclusion or disadvantage, social exclusion, psychological harms, physical harms and political exclusion in light of any systemic or historical disadvantage faced by the group.⁴⁸

42. Being barred from seeking election excludes Ms. Jackson-Littlewolfe and other WLFN members in common law relationships from the possibility of financial benefit for serving in elected leadership.

⁴⁷ *Fraser v. Canada (Attorney General)*, [2020 SCC 28](#) [*Fraser*], at para 27, **ABOA, tab 19**.

⁴⁸ [Fraser](#), para 76, **ABOA, tab 19**.

43. There is clearly a social impact as well. Ms. Jackson-Littlewolfe relates the undignifying interactions she had at the nomination meeting and before the Appeals Committee that were imposed on her because of the scrutiny of her marital status.⁴⁹ Ms. Jackson-Littlewolfe is clearly motivated to be engaged in the political process of WLFN.⁵⁰ Her attempt to run for elected office, as encouraged by Elders, was met by prying scrutiny and public accusations against her concerning her intimate life and marital status. The fact that Ms. Jackson-Littlewolfe has the personal fortitude to press on and seek legal vindication of her right to run for office without discrimination does not minimize the social and psychological impact of WLFN's discrimination against her.
44. Ms. Jackson-Littlewolfe is categorically excluded from running for political office at WLFN on the basis of her marital status. In a serious affront to their personal dignity, Ms. Jackson-Littlewolfe and other similarly situated members are treated as unworthy of holding elected office at WLFN simply because they are in common law relationships.
45. The historical context of the disadvantages imposed on common law individuals has been recounted in various court decisions.
46. In *Miron v Trudel*, Justice McLachlan (as she then was) stated that the "historical disadvantage" of persons involved in an unmarried relationship "cannot be denied."⁵¹ She recounted:
- There is ample evidence that unmarried partners have often suffered social disadvantage and prejudice. Historically in our society, the unmarried partner has been regarded as less worthy than the married partner. The disadvantages inflicted on the unmarried partner have ranged from social ostracism through denial of status and benefits.⁵²
47. She further found that "discrimination on the ground of marital status may be seen as akin to discrimination on the ground of religion, to the extent that it finds its roots and expression in moral disapproval of all sexual unions except those sanctioned by the church and state."⁵³

⁴⁹ Jackson-Littlewolfe Affidavit, paras 58, 60, 66-74, AR tab 5, AR025, AR027.

⁵⁰ Jackson-Littlewolfe Affidavit at paras 7-11, 17, 21-27, 30-32, 37, 39-42 and 47.

⁵¹ *Miron* at para LXXII (p 499), **ABOA, tab 17**.

⁵² *Ibid*.

⁵³ *Miron* at para LXXIV (pp 498-99), **ABOA, tab 17**.

48. This historical context of the Common Law Marriage Prohibition shows that it is founded in moral and religious disapprobation on those in common law relationships.
49. Justice Abella in *Quebec v A*, like Justice McLachlan, found that unmarried spouses have been historically stigmatized in Canada.⁵⁴ She went on to state that where government conduct “widens the gap between the historically disadvantaged group and the rest of society rather than narrowing it, then it is discriminatory.”⁵⁵
50. Since its institution in the 1950s, the Common Law Marriage Prohibition’s disadvantage has not subsided: rather its impact has broadened. According to the 2016 Census profile for WLFN, the majority of people in relationships at WLFN are in fact in common law relationships. Of the 385 persons on WLFN “Married or living common law,” 170 are living married, while 215 are living common law.⁵⁶ Thus, out of the 900 people over aged 15 in 2016, 215, roughly 1 in 4, WLFN members are prohibited from running for chief and council.
51. The Common Law Marriage Prohibition on its face and in its impact makes a distinction based on marital status that reinforces, perpetuates and exacerbates disadvantage by prohibiting Ms. Jackson-Littlewolfe and nearly a quarter of adult WLFN members from running for election.
52. This discrimination, including the Decision denying the candidacy of Ms. Jackson-Littlewolfe, violates section 15(1) of the *Charter*.
53. Consequently, the burden shifts to WLFN to prove that this discriminatory distinction is not arbitrary⁵⁷ but rather is “demonstrably justified” under section 1 of the *Charter*.

B. The Decision is an unreasonable violation of Ms. Jackson-Littlewolfe’s equality rights.

54. Where an administrative decision engages an individual’s *Charter* rights, courts apply the *Doré* analysis, which was described by the Supreme Court of Canada in *Law Society of British Columbia v. Trinity Western University* as follows:

For a decision to be proportionate, it is not enough for the decision-maker to simply balance the statutory objectives with the *Charter* protection in making its decision. Rather, the reviewing court must be satisfied that the decision

⁵⁴ *Quebec v A*, para 312, ABOA, tab 18.

⁵⁵ *Quebec v A*, para 332, ABOA, tab 18.

⁵⁶ Affidavit of Anneke Pingo (“Pingo Affidavit”), Exhibit A, AR tab 6A, AR164.

⁵⁷ *Fraser* para 80, ABOA, tab 19.

proportionately balances these factors, that is, that it “gives effect, as fully as possible to the *Charter* protections at stake given the particular statutory mandate” (*Loyola*, at para. 39). Put another way, the *Charter* protection must be “affected as little as reasonably possible” in light of the applicable statutory objectives (*Loyola*, at para. 40). When a decision engages the *Charter*, reasonableness and proportionality become synonymous. Simply put, a decision that has a disproportionate impact on *Charter* rights is not reasonable.

The reviewing court must consider whether there were other reasonable possibilities that would give effect to *Charter* protections more fully in light of the objectives. This does not mean that the administrative decision-maker must choose the option that limits the *Charter* protection *least*. The question for the reviewing court is always whether the decision falls within a range of reasonable outcomes (*Doré*, at para. 57; *Loyola*, at para. 41, citing *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995] 3 S.C.R. 199, at para. 160). However, if there was an option or avenue *reasonably* open to the decision-maker that would reduce the impact on the protected right while still permitting him or her to sufficiently further the relevant statutory objectives, the decision would not fall within a range of reasonable outcomes. This is a highly contextual inquiry.

The reviewing court must also consider how substantial the limitation on the *Charter* protection was compared to the benefits to the furtherance of the statutory objectives in this context (*Loyola*, at para. 68; *Doré*, at para. 56). The *Doré* framework therefore finds “analytical harmony with the final stages of the *Oakes* framework used to assess the reasonableness of a limit on a *Charter* right under s. 1: minimal impairment and balancing” (*Loyola*, at para. 40). In working “the same justificatory muscles” as the *Oakes* test (*Doré*, at para. 5), the *Doré* analysis ensures that the pursuit of objectives is proportionate. In the context of a challenge to an administrative decision where the constitutionality of the statutory mandate itself is not at issue, the proper inquiry is whether the decision-maker has furthered his or her statutory mandate in a manner that is proportionate to the resulting limitation on the *Charter* right.⁵⁸

55. In the present case, there is no evidence whatsoever that WLFN even considered Ms. Jackson-Littlewolfe’s *Charter* right to equality when it decided to prohibit her from running for election on the basis of her marital status. It is therefore impossible for the Decision to satisfy the *Doré* analysis, which requires a proportionate balancing of Ms. Jackson-Littlewolfe’s *Charter* rights against any competing government interests or *Charter* protections: “[f]ailure to balance said

⁵⁸ [LSBC v. TWU](#), paras 80-82, ABOA, tab 8.

interests will, by definition, render a decision unreasonable as per *Doré v. Barreau du Québec*.⁵⁹

56. Even if the Decision had in fact been the result of WLFN seeking to balance its interests against Ms. Jackson-Littlewolfe's *Charter* rights, there is no proportionality to the Decision.

57. It is not clear what, if any, legitimate government objectives the Decision seeks to advance. Elders of WLFN have testified that prohibiting people in common law relationships from running for Chief and Council is not related to whether an individual might be qualified for leadership on the basis of their leadership skills, knowledge of the traditional territory, communication skills or service within the community.⁶⁰ Further, they have testified that this prohibition is not part of the traditional practices or customs of WLFN or part of the terms of Treaty 6.⁶¹

58. It is not a legitimate government objective to impose a particular religious conception of morality on individuals seeking elected office:

In an earlier time, when people believed in the collective responsibility of the community toward some deity, the enforcement of religious conformity may have been a legitimate object of government, but since the *Charter*, it is no longer legitimate. With the *Charter*, it has become the right of every Canadian to work out for himself or herself what his or her religious obligations, if any, should be and it is not for the state to dictate otherwise.⁶²

59. Far from being a reasonable attempt to balance Ms. Jackson-Littlewolfe's *Charter* rights with legitimate objectives, the Decision is not justified under section 1 of the *Charter*: it was an unreasoned imposition of an arbitrary and discriminatory requirement based solely on Ms. Jackson-Littlewolfe's marital status.

⁵⁹ *CHP v. City of Hamilton*, 2018 ONSC 3690, at para 57, ABOA, tab 20; *LSBC v TWU*, at para 79, ABOA, tab 9 citing *Doré*, at para 7, ABOA, Tab 8 and *Loyola*, at para 32, ABOA, tab 10;

⁶⁰ Houle Affidavit, para 9; AR tab 7, AR177; Sparklingeyes Affidavit, para 17, AR tab 8, AR181.

⁶¹ Houle Affidavit, para 7-8, AR tab 7, AR177; Sparklingeyes Affidavit, para 16, AR tab 8, AR181.

⁶² *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295, at p 351, ABOA, tab 21.

C. The Common Law Marriage Prohibition is not demonstrably justified under section 1 of the Charter.

60. Whether the Common Law Marriage Prohibition's violation of section 15(1) of the *Charter* is justified under section 1 is determined by the *Oakes* test. The onus of justification is on WLFN.⁶³ This burden requires that WLFN provide "cogent and persuasive" evidence.⁶⁴
61. The *Oakes* test requires proof of the following:
1. There is a pressing and subjective objective for the limitation of *Charter* rights;
 2. The limit on *Charter* rights is rationally connected to the objective;
 3. The limit impairs the right or freedom no more than is reasonably necessary to accomplish the objective; and,
 4. There is proportionality between the deleterious and salutary effects of the limit.⁶⁵
62. The apparent objective of the Common Law Marriage Prohibition, evidenced by its historical origins, is the imposition of religious-based morality. This is, as noted above, not a legitimate government objective.
63. If there happens to be a legitimate government objective, prohibiting persons in common law relationships from running for elected office is not rationally connected to that objective.
64. The categorical prohibition on those in common law relationships from running for election is further not minimally impairing of their equality rights.
65. Finally, there is no proportionality between any conceivable benefit and the harm of prohibiting a quarter of the adult members of WLFN, who are in common law relationships, from running for election.
66. The Common Law Marriage Prohibition thus cannot be justified under the *Oakes* test.

⁶³ [Oakes](#), para 66, ABOA, tab 2.

⁶⁴ [Oakes](#), para 68, ABOA, tab 2.

⁶⁵ [Oakes](#), para 69-71, ABOA, tab 2.

D. Neither the Common Law Marriage Prohibition nor the Decision are shielded or otherwise protected from the application of the *Charter* by section 25.

67. WLFN has indicated in this litigation that it intends to defend the Common Law Marriage Prohibition and the Decision on the basis of section 25 and section 35 of the *Charter*. These sections state:

25 The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
- (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

...

35 (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.

(3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

68. The very complex legal issues raised in a section 25 or section 35 analysis require a sufficient evidentiary foundation.

69. In *Cunningham v. Alberta (Minister of Aboriginal Affairs and Northern Development)*,⁶⁶ a section 25 argument was raised, which Justice Ritter, writing for the unanimous Alberta Court of Appeal, addressed as follows:

I do not need to deal with the question of whether the case satisfies the approach outlined in *Kapp* as I agree there is no real evidentiary basis that would enable analysis of s. 25, which is triggered when “aboriginal, [or] treaty” rights are impacted. An evidentiary basis is essential to the analysis of *Charter* issues: see *MacKay v. Manitoba*, [1989] 2 S.C.R. 357 (S.C.C.), at 366, (1989), 61 D.L.R. (4th) 385 (S.C.C.); *Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R.

⁶⁶ *Cunningham v. Alberta (Minister of Aboriginal Affairs and Northern Development)*, 2009 ABCA 239 [Cunningham], ABOA, tab 22, rev’d on other grounds *Alberta (Aboriginal Affairs and Northern Development) v. Cunningham*, 2011 SCC 37.

1086 (S.C.C.), at 1099-1102, (1990), 73 D.L.R. (4th) 686 (S.C.C.). In this case, the evidence would need to establish an aboriginal right that specifically deals with exclusion of members on the basis of their Indian status: see *R. v. Vanderpeet*, [1996] 2 S.C.R. 507, 137 D.L.R. (4th) 289 (S.C.C.) at paras. 44-47. No such evidence is in the record. Rather, the record discloses that persons with Indian status were able to maintain their Métis membership until passage of the *MSA*, and of course many people continue to maintain both Indian and Métis status. In addition, the evidence adduced does not show that the impugned provisions protect Métis culture. Nor does it show that there will be an influx of Indian status members or that persons with dual status will take over councils, it merely suggests a concern that this might happen.⁶⁷

70. Justice Ritter went on to raise concerns about an overbroad application of section 25 protection for “odious” provisions that discriminate against Aboriginals individual on the basis of their personal characteristics:

Although s. 25 of the *Charter* applies to existing and future constitutional rights acquired by aboriginal people, including Métis, I very much doubt that protection applies to any enactment which purports to set out or enhance existing constitutional practices and rights. If that were the case, it would render sacrosanct any enactment that purports to incorporate constitutional protection for aboriginals, no matter how odious the provision at issue may be. For example, no one could challenge a provision that would restrict membership to able-bodied persons, or men or women only, or persons of a certain age. This point is supported by *Kapp*. Moreover, at para. 99 of *Kapp*, Basterache J. held that s. 25 was not intended to be used as between aboriginal groups.⁶⁸

71. There are similar concerns about any section 25 or 35 argument that WLFN may choose to make in this matter.
72. There is simply no real evidentiary basis in this matter to enable an analysis of whether the Common Law Marriage Prohibition is part of “any aboriginal, treaty or other rights or freedoms that pertain to” WLFN members. The lacking evidence “would need to establish an aboriginal right that specifically deals with exclusion of members” from serving in leadership on the basis of their being in a common law relationship.⁶⁹

⁶⁷ *Cunningham*, para 72, **ABOA, tab 22**

⁶⁸ *Cunningham* para 73, **ABOA, tab 22**.

⁶⁹ See *Dickson v. Vuntut Gwitchin First Nation*, [2021 YKCA 5](#), at paras 151: “The Supreme Court of Canada has made it clear that constitutional cases like this are best decided on a case-by-case basis, and **with the benefit of an adequate evidentiary record** and full argument.” [Emphasis added], **ABOA, tab 15**.

73. The evidence in this matter shows that the Common Law Marriage Prohibition was adopted in the 1950s on the basis of religious moral sentiments stirred by a former chief in 1923 abandoning his wife and living with another woman. There is no evidence that the Common Law Marriage Prohibition is a reflection of a traditional aboriginal practice or custom, and two WLFN Elders have shared that it is not related to any treaty rights or pre-contact practices or customs of WLFN.⁷⁰ Nor is it reflective of the current practices or will⁷¹ of the members of WLFN, as shown by the fact that the majority of conjugal relationships among WLFN members are common law, rather than marriages.⁷²

74. WLFN provided the Affidavit of Ben Houle which states:

I am advised by WFLFN #128's elders, former leaders, and by historical records that the Customary Election Regulations, including the Common Law Provision, are a reflection of the WFLFN #128's customs and traditional practices and reflect our historical practices of governance.⁷³

75. This claim, relating to the Election Regulations as a whole with the inclusion of the Common Law Marriage Prohibition, is a broad one. In support of this assertion, no specific historical records relating to the Common Law Marriage Prohibition are attached to the affidavit. The only information provided in the affidavit concerning the Common Law Marriage Prohibition are hearsay statements attributed to Reverend Bill Jackson from a conversation in November 2021. WLFN, however, has not met its evidentiary burden to show that it is necessary to provide the alleged statements of Reverend Jackson by hearsay.⁷⁴

76. Given the significance of the argument WLFN is seeking to make in attempting to shield its odious discrimination against a quarter of its members from constitutional review and redress,

⁷⁰ Sparklingeyes Affidavit, paras 15-16, AR tab 8, AR181; Houle Affidavit, paras 7-8, AR tab 7, AR177.

⁷¹ Sparklingeyes Affidavit, para 24, AR tab 8, AR182; Houle Affidavit, para 15, AR tab 7, AR178.

⁷² Pingo Affidavit, Exhibit A, AR tab 6A, AR165.

⁷³ Houle Affidavit, para 5, AR tab 7, AR177.

⁷⁴ See *Cowichan Tribes v Canada (Attorney General)*, [2019 BCSC 1243](#), at paras 105-108, **ABOA, tab 23**.

WLFN cannot be found to have met its evidentiary burden by relying on hearsay statements when the declarant, as of November 2021, was evidently available.⁷⁵

77. Beyond this initial comment, Ms. Jackson-Littlewolfe anticipates replying further to WLFN's section 25 and/or section 35 arguments after receipt of those arguments.

E. The Court should declare the Common Law Marriage Prohibition to be of no force and effect, declare the Decision to be a violation of Ms. Jackson-Littlewolfe's section 15(1) rights, and order that a new election be held forthwith.

78. It is well established that this Court has the authority to declare First Nations' election provisions which violate members' equality rights under section 15(1) of the *Charter* to be of no force and effect pursuant to section 52(1) of the *Constitution Act, 1982*.⁷⁶

79. Likewise, this Court can issue *Charter* declarations where the decisions of First Nations' concerning band elections violate members' section 15(1) *Charter* rights.⁷⁷

80. Although it was reversed by the Supreme Court of Canada on the basis that section 15(1) was not in fact violated, the Federal Court of Appeal in *Taypotat* demonstrated the appropriate remedy for an election where a candidate is discriminated against in violation of section 15(1) of the *Charter*:

I would consequently allow the appeal, set aside the judgment of the Federal Court, annul, invalidate and void the impugned provisions, and order that a new election for the office of Chief be held within 60 days of the judgment of this Court.⁷⁸

81. An order declaring the Common Law Marriage Prohibition discriminatory and of no force or effect, and holding a new election within 60 days is particularly appropriate in the present case given the perverse nature of the discrimination and that a quarter of adult WLFN members were prohibited from running in the last election.

⁷⁵ Ben Houle Affidavit, para 6: "By way of example, I spoke recently, in November, 2021 with Elder and retired Reverend Bill Jackson...."

⁷⁶ See *Janvier v. Chipewyan Prairie First Nation*, [2021 FC 539](#) at para 33, ABOA, tab 24; *Taypotat* at paras 2, 66, ABOA, tab 12, reversed by *Kahkewistahaw*, ABOA, tab 13, on the basis that section 15(1) was not in fact violated.

⁷⁷ See *Clark v. Abegweit First Nation Band Council*, [2019 FC 721](#) [Clark], ABOA, tab 25.

⁷⁸ *Taypotat* at paras 2, ABOA, tab 12.

82. WLFN is part of the Saddle Lake Cree Nation #462 band, which has now adopted a new election code, the *onihcikiskwapowin* – Tribal Customs Elections Code, which does not include the Common Law Marriage Prohibition. WLFN members provided input into the creation of this election code, though WLFN leadership inexplicably withdrew formal involvement. According to the joint band council resolution and practice, WLFN share and “follow the same election laws as Saddle Lake”.⁷⁹ On this basis, the Court may order that WLFN apply the *onihcikiskwapowin* – Tribal Customs Elections Code in the next election.

83. Alternatively, this Court could choose to order WLFN to create new *Charter*-compliant election regulations.

84. Ms. Jackson-Littlewolfe requests that this Court retain jurisdiction of this matter until a new election is held and new *Charter*-compliant election regulations are adopted in accordance with the orders of this Court.⁸⁰

85. On the matter of costs, it is submitted that Ms. Jackson-Littlewolfe is entitled to an elevated cost award for the following reasons:

- this matter is an issue of substantial public interest and will have widespread societal impact at WLFN, particularly to the quarter of adult WLFN members who are presently prohibited from seeking elected office;
- there is an obvious imbalance between Ms. Jackson-Littlewolfe’s financial resources and those of WLFN; and
- this litigation was unfortunately necessary to address overt discrimination in the governance framework of WLFN.⁸¹

86. Ms. Jackson-Littlewolfe would be happy to provide further submissions on costs after the Court renders its decision on the merits of this case.

⁷⁹ Jackson-Littlewolfe Affidavit, para 74, AR tab 5, AR027; see also Jackson-Littlewolfe Affidavit, para 19, AR tab 5, AR019; Sparklingeyes Affidavit, para 19-20, AR tab 8, AR181; Houle Affidavit, para 13, AR tab 7, AR178.

⁸⁰ See *Clark*, **ABOA**, tab 25.

⁸¹ See *Whalen v. Fort McMurray No. 468 First Nation*, [2019 FC 1119](#), at paras 17, 21, 27, 30, 32 and 35.

PART IV: ORDERS SOUGHT

87. Ms. Jackson-Littlewolfe asks this Court to:

- (a) declare pursuant to section 52(1) of the *Constitution Act, 1982*, that the Common Law Marriage Prohibition unjustifiably discriminates based on marital status contrary to section 15(1) of the *Charter* and is therefore of no force or effect;
- (b) declare pursuant to section 24(1) of the *Charter* that the Decision unreasonably infringed the Ms. Jackson-Littlewolfe's section 15(1) equality rights;
- (c) order that new elections be held for WLFN Chief and Council within sixty (60) days after the date of the Court's judgment;
- (d) order that such elections be held pursuant to the *onihcikiskwapowin* - Tribal Customs Elections Code;
- (e) in the alternative, order that WLFN adopt *Charter*-compliant election regulations;
- (f) order that the Court retains jurisdiction of this matter until its orders are fulfilled; and
- (f) order that Ms. Jackson-Littlewolfe receive elevated costs on a lump sum basis.

RESPECTFULLY SUBMITTED this 12th day of January, 2022.



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APPENDIX A – STATUTES AND REGULATIONS

CONSTITUTION ACT, 1867

VI. Distribution of Legislative Powers

Powers of the Parliament

Legislative Authority of Parliament of Canada

91 It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

...

24. Indians, and Lands reserved for the Indians.

CONSTITUTION ACT, 1982

PART I

Canadian Charter of Rights and Freedoms

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

Rights and freedoms in Canada

LOI CONSTITUTIONNELLE DE 1867

VI. Distribution des pouvoirs législatifs

Pouvoirs du parlement

Autorité législative du parlement du Canada

91 Il sera loisible à la Reine, de l'avis et du consentement du Sénat et de la Chambre des Communes, de faire des lois pour la paix, l'ordre et le bon gouvernement du Canada, relativement à toutes les matières ne tombant pas dans les catégories de sujets par la présente loi exclusivement assignés aux législatures des provinces; mais, pour plus de garantie, sans toutefois restreindre la généralité des termes ci-haut employés dans le présent article, il est par la présente déclaré que (nonobstant toute disposition contraire énoncée dans la présente loi) l'autorité législative exclusive du parlement du Canada s'étend à toutes les matières tombant dans les catégories de sujets ci-dessous énumérés, savoir :

...

24. Les Indiens et les terres réservées pour les Indiens.

LOI CONSTITUTIONNELLE DE 1982

PARTIE I

Charte canadienne des droits et Libertés

Attendu que le Canada est fondé sur des principes qui reconnaissent la suprématie de Dieu et la primauté du droit :

Garantie des droits et libertés

Droits et libertés au Canada

1 The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

1 La *Charte canadienne des droits et libertés* garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.

Equality Rights

Droits à l'égalité

Equality before and under law and equal protection and benefit of law

Egalité devant la loi, égalité de bénéfice et protection égale de la loi

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

15 (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

General

Dispositions générales

Aboriginal rights and freedoms not affected by Charter

Maintien des droits et libertés des autochtones

25 The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

25 Le fait que la présente charte garantit certains droits et libertés ne porte pas atteinte aux droits ou libertés — ancestraux, issus de traités ou autres — des peuples autochtones du Canada, notamment :

(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

a) aux droits ou libertés reconnus par la proclamation royale du 7 octobre 1763;

(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

b) aux droits ou libertés existants issus d'accords sur des revendications territoriales ou ceux susceptibles d'être ainsi acquis.

Application of Charter

Application of Charter

32 (1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

PART II

Rights of the Aboriginal Peoples of Canada

Recognition of existing aboriginal and treaty rights

35 (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Definition of *aboriginal peoples of Canada*

(2) In this Act, *aboriginal peoples of Canada* includes the Indian, Inuit and Métis peoples of Canada.

Land claims agreements

(3) For greater certainty, in subsection (1) *treaty rights* includes rights that now exist by way of land claims agreements or may be so acquired.

Application de la charte

Application de la charte

32 (1) La présente charte s'applique :

a) au Parlement et au gouvernement du Canada, pour tous les domaines relevant du Parlement, y compris ceux qui concernent le territoire du Yukon et les territoires du Nord-Ouest;

b) à la législature et au gouvernement de chaque province, pour tous les domaines relevant de cette législature.

PARTIE II

Droits des peuples autochtones du Canada

Confirmation des droits existants des peuples autochtones

35 (1) Les droits existants — ancestraux ou issus de traités — des peuples autochtones du Canada sont reconnus et confirmés.

Définition de *peuples autochtones du Canada*

(2) Dans la présente loi, *peuples autochtones du Canada* s'entend notamment des Indiens, des Inuit et des Métis du Canada.

Accords sur des revendications territoriales

(3) Il est entendu que sont compris parmi les droits issus de traités, dont il est fait mention au paragraphe (1), les droits existants issus d'accords sur des revendications territoriales ou ceux susceptibles d'être ainsi acquis.

Aboriginal and treaty rights are guaranteed equally to both sexes

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

PART VII

General

Primacy of Constitution of Canada

52 (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Constitution of Canada

(2) The Constitution of Canada includes

- (a)** the *Canada Act 1982*, including this Act;
- (b)** the Acts and orders referred to in the schedule; and
- (c)** any amendment to any Act or order referred to in paragraph (a) or (b).

Egalite de garantie des droits pour les deux sexes

(4) Indépendamment de toute autre disposition de la présente loi, les droits — ancestraux ou issus de traités — visés au paragraphe (1) sont garantis également aux personnes des deux sexes.

PARTIE VII

Dispositions generales

Primaute de la Constitution du Canada

52 (1) La Constitution du Canada est la loi suprême du Canada; elle rend inopérantes les dispositions incompatibles de toute autre règle de droit.

Constitution du Canada

(2) La Constitution du Canada comprend :

- a)** la *Loi de 1982 sur le Canada*, y compris la présente loi;
- b)** les textes législatifs et les décrets figurant à l'annexe;
- c)** les modifications des textes législatifs et des décrets mentionnés aux alinéas a) ou b).