



<p>Ottawa, January 28, 2020 – A Judgment was issued today by the Honourable Justice Michael L. Phelan of the Federal Court in files T-2153-00 and T-2155-00:</p>	<p>Oyasiwêwin kî-pakitinikâtêw anohc ohci Honourable Justice Michael L. Phelan Okimânâhk Wiyasiwêwinohk ohci pîhci masinahikanihk T-2153-00 êkwa T-2155-00:</p>
<p>IN THE MATTER OF PETER WATSON et al v HER MAJESTY THE QUEEN et al; and WESLEY BEAR et al v HER MAJESTY THE QUEEN et al</p>	<p>PISISKĒYIHCİKĒWIN OHCI PETER WATSON êkwa kotakak mawinêham KIHCI-OKIMÂSKWĒW êkwa kotakak; êkwa WESLEY BEAR êkwa kotakak mawinêham KIHCI-OKIMÂSKWĒW êkwa kotakak</p>
<p><u>Court Decision</u></p> <p>The Federal Court determined that the amalgamation of two Treaty 4 Indian Bands, the Chacachas and Kakisiwew into the Ochapowace Indian Band, was unlawful by virtue of the failure of the federal Crown to implement the promises of Treaty 4 in accordance with its obligation of “honour of the Crown”.</p>	<p><u>Wiyasiwêwinohk Oyasiwêwin</u></p> <p>Okimânâhk Wiyasiwêwin kîsasiwâtam êkwanima mâmawipicikêwin ohci ôhi nîso Ostêsîmâ woyasiwêwin nêwo Nêhiyaw Iskonikana, ôma Chacachas êkwa Kakisiwew pîhci-Ochapowace Nêhiyaw Iskonikan, kî-mâyahkamikan kwayaskwâtisiwin ohci êwako ôma kapâtâpahcikatêk ohci okimânâhk Kihci-Owiyasiwêw ta-pihkohtât asotamakêwina ohci Ostêsîmâwoyasiwêwin nêwo pîhci isi têpakêyimowin asici onâkatêyihitamowin ohci “kistêyihâtakosiwin ohci Kihci-Owiyasiwêw”.</p>
<p>This finding was the first part of long-standing litigation to re-establish the Bands as separate entities. The second part of the litigation will deal with further issues of the consequences of this declaration and the appropriate remedies to be fashioned. The Court maintains jurisdiction over this case and has given the parties 90 days to outline their proposals for this next phase.</p>	<p>Miskâkêw êwako ôma nistam êsa kinwêspimohtêamakan paminikêwin kâwi ta-sipwêpayihcikatêw ôhi Iskonikana êkwanihi pâhpahkân ihtâwina. Kîhtwâm pahki ôma paminikêwin ta-atoskâcikatêw awasimê pisiskêyihitamowina ohcipayiwina ohci ôma wîhtamâkêwin êkwa katawâhk mînohtâwin ta-sâpohtêamakan. Wiyasiwêwinohk kanawêyihitam ôma paminikêwin pâsci ôma wiyasiwêwin êkwa mêkiw isi mawinêhikewak kêkâmitâhtomitanaw kîsikaw ta-kiskinwahikêcik owiyasiwâtamowin kiki kîhtwâm yahkohtêwin.</p>
<p><u>Summary</u></p> <p>Justice Phelan found that the promises in Treaty 4</p>	<p><u>Kiskinwahikêwin</u></p> <p>Justice Phelan miskam mîna asotamakêwina pîhci</p>

<p>included a promise of a reserve for each band. The Bands claimed that lands surveyed in 1876 became reserves lands for each Band separately. In 1881 Canada surveyed a joint reserve for the Kakisiwew and Chacachas and in 1884 the two bands were combined without consent into one band when Chief Ochapowace became chief of the amalgamated band: the Ochapowace Band.</p>	<p>Ostêsimâwoyasiwêwin nêwo kikinikâtêw asotamakêwin ohci askîhkân kiki tahto iskonikan. Iskonikana wîhtamwak êkwanihi askiya ka-kî-wâpahcikatêkihk ispîhk 1876 ki-kwêskastâwak isi askîhkân askiya kiki tahto Iskonikan pâh-pahkân. Ispîhk 1881 Kânata kî-wâpahtam mâmawî-askîhkân kiki Kaki-siwew êkwa Chacachas êkwa mina ispîhk 1884 nîso ôhi Iskonikana kî-mâmawinikatêwa ata namôya ê-kî-pakitêyihcikatêk isi pêyak iskonikan ispîhk Okimâhkân Ochapowace kî-okimâhkâniwiw ohci mâmawî picikêwin iskonikan: êwako ôma Ochapowace Iskonikan.</p>
<p>The descendants of the two original Bands, particularly the Chacachas, claimed that the amalgamation was accomplished without their required consent. The Bands have also claimed for declaration as to their status and for compensation for breaches of fiduciary duties, breaches of trust, and breaches of treaty.</p>	<p>Wâhkômâkanak ohci ôhi nîso nistam Iskonikana, wâwîs ôma Chacachas, wihtamwak êkwanima mâmawipicikêwin kî-kîsihtâwak ata namôya wiyawaw kî-ohci pakitêyimwak. Iskonikana mîna natotamwak kêhcinâhiwêwin kiki akihtâsowin êkwa mîna tipahikêwin kiki kwêskiwêpinikêwin ohci sôniyâwi-nâkatêyihitamowin, kwêskiwêpinikêwin ohci mamisî-totâ-kêwin, êkwa kwêskiwêpinikêwin ohci ostêsimâwoyasiwêwin.</p>
<p>Canada has denied the Bands' claims, factually and legally, including that the reserves were never created and that amalgamation was done with consent. Canada further said that even if the claims are proven, the claims are time-barred or otherwise acquiesced in by the members of the Bands at the time of amalgamation and for years subsequent to the amalgamation.</p>	<p>Kânata ânwêyihitam ôhi Iskonikan ô-natotamakêwina, tipiyaw êkwa mîna kwayaskitastêwin, asici mîna askîhkân namoya kî-osihcikatêw êkwa mina mâmawipicikêwin kî-tôcikatêw asici pakitêymowin. Kânata ayiwak itwêw kispin ohi natotamakêwina kêhcinâc, natotamakêwina osam-kinwêsêskamik aspin ahpô kispin piko kî-têpêyimowak ôki pimohtêstamakêwak ohci Iskonikan ispîhk aspin mâmawipicikêwin êkwa tânitahto askiy aspin ôma mâmawipicikêwin.</p>
<p>The first phase of the trial engaged, in part, in answering specific questions set by Justice Hugessen in 2008 principally related to the existence of the Bands, the amalgamation and the recognition of those Bands in current circumstances. The Court concluded that, in addition to the unlawful amalgamation, the Chacachas Band has continued as a distinct rights bearing collective even if not recognized as a band under the <i>Indian Act</i>, and it is entitled to</p>	<p>Nistam yahkohtêwin ohci māmawapiwin māmawohkamwak, pahki, ê-māmiskôcikatêk mêmohci kakwêcihkêmwowin itastêw ohci Justice Hugessen ispîhk 2008 osâm piko êwako ohci ihtawin ôhi Iskonikana, ôma māmawipicikêwin êkwa nisitawêyihâtakosiwin ohci êkoni Iskonikana mêkwâc ôma ka-itahkamikahk. Wiyasiwêwinohk kêshtaw asici êkwanima, asici mina mâyahkamiskiwin ohci māmawipicikêwin, ôma Chacachas Iskonikan ki-âhkamêyihitam tâpiskôc miyikowisin isi tipêyihcikêwin ata namôya ê-</p>

<p>assert treaty rights under Treaty 4.</p>	<p>nisitawêyihâtakwahk isi iskonikan sîpâ ôma Nêhiyaw Pimohtêstamakêwin, êkwa mîna kaskihtamâsow ta-âhkamêyihahk ostêsimâwoyasiwêwin miyikowisin sîpâ Ostêsimâwoyasiwêwin nêwo.</p>
<p>The Court held that declarations regarding the constitutionality of Crown conduct are not time-barred, but that the Chacachas and Kakisiwew Bands are estopped from seeking further treaty land entitlements from Canada because of settlement agreements made.</p>	<p>Wiyasiwêwinohk kîsasi-wâtam êkwanihi wîhtamâkêwina ohci ispihtêyihâtakosiwin ôma tipêyihcikêwin isi Kihci-Owiyasiwêw opaminikêwin êkwanihi namôya osam-kinwêsêskamik, mâka ekwanihi Chacachas ekwa Kakisiwew Iskonikan kipihtinawak tatonahkihik awasimê ostêsimâwoyasiwêwin askiy tipêyihcikêwin ohci Kânata ayis ohci nahêyih towin tipêyimowin ka-osihcikâtêkihik.</p>
<p>Justice Phelan reiterated that the purpose of this declaration is to provide a basis for the descendants of the two Bands, the existing Ochapowace Band and Canada to negotiate or otherwise determine how the Chacachas people can separate from the Ochapowace Band.</p>	<p>Justice Phelan kîhtwâm itwêw êwako oma wîhtamâkêwin itâpatan ta-pakitinahk nîkânîhtâwin kiki ôki wâhkômâkanak ohci ôhi nîso Iskonikana, ôhi ka-ihtakohk Ochapowace Iskonikan êkwa Kânata ta-âyimôcikatêk aphô ta-têpêyimocik tanisi isi ôki Chacachas ayisiniwak ta-kî-pâh-pahkâniwin ayâcik ohci Ochapowace Iskonikan.</p>
<p>The issues of how that separation will be accomplished as well as a number of other complex issues will be the subject of the second phase of this litigation.</p>	<p>Ôhi pisiskêyih tamowina tanisi isi êkwaniima pâh-pahkâniwin ta-kî-kîsihcikâtêk êkwa mîna itahto kotaka nanâtohk pisiskêyih tamowina êkwanihi nâkatohkêwina kîhtwam yahkohtêwin ohci ôma paminikêwin.</p>

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An audio recording of this summary in the Cree language will be available as soon as possible on the Court website at: <https://www.fct-cf.gc.ca/en/pages/media/webcast>

A copy of the decision can be obtained via the Web site of the Federal Court: <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/460388/index.do>