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DELIVERED VIA EMAIL (Registry.Office@chrt-tcdp.gc.ca)

Ms. Amanda Wilkes
Senior Registry Officer
Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4

Dear Ms. Wilkes:

Re: FNCFCSC and AFN v. AGC - T1340/7008 – Issuance of reasons on OFA approval motion

On behalf of Taykwa Tagamou Nation and the Chippewas of Georgina Island, we provide these brief reply submissions on the issue of whether Member Marchildon may proceed to sign detailed reasons for decision on her own, following our review of submissions from the Attorney General of Canada.

Canada is the only party who opposes Member Marchildon issuing reasons for decision on her own. Its position is based on a highly technical argument that the Panel is “inquate” and a purported concern that Member Marchildon’s reasons would not reflect the reasoning behind the Panel’s letter decision, in which Member Lustig participated.

COO and NAN’s August 4, 2026 correspondence explains in detail why neither of these concerns withstand scrutiny, and why a practical, transparent, and human-rights centered approach demands full reasons for decision.

We write to raise an additional point that weighs heavily in favour of Member Marchildon providing full reasons in support of the OFA approval decision. As Canada acknowledges in its letter, Canada is challenging the OFA approval decision — or, as Canada frames it, those aspects of the Tribunal’s decision granting Taykwa Tagamou Nation and the Chippewas of Georgina Island an exemption from the OFA — by way of judicial review. The exercise of judicial review begins with and focuses on the reasons offered by administrative decision-makers in support of their decision. Without the benefit of full reasons for decision explaining the OFA approval decision (including the exemptions granted as part and parcel of that decision), the Court’s ability to understand the complete basis and rationale for the Panel’s decision risks being compromised. As the applicant challenging that decision in Court, the lack of a fully articulated rationale arguably benefits Canada, while prejudicing those parties seeking to uphold the decision.

Canada's suggestion that Member Marchildon provide a "written statement in her personal capacity" falls well short of the mark in terms of addressing this important concern. Canada's view is that such a statement "would not purport to complete" the Tribunal's reasons; thus, Canada would presumably take the position in its application for judicial review that such a statement could not be relied upon to understand or assess the reasonableness of the Panel's decision.

We close by observing that Member Lustig likely did not contemplate that his resignation would cause yet another major point of dispute between the parties. The present dispute goes beyond technical, procedural or scheduling matters; it engages the very core of the Panel's ability and duty to provide the parties and the public with guidance, transparency and a proper basis for judicial scrutiny of its decision-making.

Taykwa Tagamou Nation and the Chippewas of Georgina Island appreciate Member Lustig's significant contributions to this case over many years and respect his decision to focus on other matters moving forward. But with the benefit of now understanding the consequences and stakes of immediately resigning before the Panel has released its reasons for decision, Taykwa Tagamou Nation and the Chippewas of Georgina Island are hopeful that Member Lustig may reconsider his decision and remain involved in the matter, to the limited extent of reviewing and signing on to the full OFA reasons for decision. That relatively simple step by Member Lustig could defuse this particular dispute and allow the parties to focus their efforts on the long list of other issues to be addressed.

Yours truly,



Justin Safayeni