

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS**

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

ATTORNEY GENERAL OF CANADA

Respondent

-and-

**CHIEFS OF ONTARIO,
AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION**

Interested Parties

CONGRESS OF ABORIGINAL PEOPLES

Interested Party on Motion

AFFIDAVIT OF BOBBY NARCISSE

**I, Bobby Narcisse, of the City of Thunder Bay, in the Province of Ontario, MAKE
OATH AND SAY:**

1. I am the Director of Social Services of Nishnawbe Aski Nation (“NAN”) and as such have knowledge of the information contained herein.
2. I am a member of Aroland First Nation, a NAN community located in the Thunder Bay District of the Province of Ontario. I was an Aroland Band Councillor from 2011 to 2013. Previous to my time as Band Councillor, I was a child and family services worker in Calgary, Alberta, at the Aspen Community Network Society.
3. I currently hold the position of Director of Social Services at NAN and have held that position since March 2013. As Director of Social Services at NAN, I have communicated extensively with NAN First Nations communities and government stakeholders on a variety of issues regarding child and family services, including the unique challenges of service delivery in remote and northern communities in Northwestern Ontario.
4. This affidavit is in support of NAN’s participation in the upcoming motions scheduled for March 27-28, 2019, where the issue to be heard by the Canadian Human Rights Tribunal (“the Tribunal”) concerns the definition of “First Nations children” for the purposes of application of Jordan’s Principle. For clarity, it is NAN’s understanding that defining the meaning of “First Nations children” is not meant to address the broader question of First Nations identity. Instead, this issue concerns an operational definition for application of Jordan’s Principle.

**I. CANADA’S CURRENT DEFINITION OF FIRST NATIONS CHILDREN
UNDER JORDAN’S PRINCIPLE**

5. Currently, Canada has defined “all First Nations children” under Jordan’s Principle to mean:

- a) children with *Indian Act* status;

- b) children who are eligible for *Indian Act* status; and,
 - c) non-status children who are ordinarily resident on reserve.
6. Canada's operating definition of a First Nations child under Jordan's Principle relies on two concepts: (1) ordinary residency on a reserve; and/or (2) *Indian Act* status. This definition creates a potential gap: children who are not deemed "ordinarily resident on reserve" and who are not eligible for *Indian Act* status. These children are at risk being refused funding for services under Jordan's Principle.
7. This gap concerns NAN for two reasons: (1) Canada's operational definition imposes a definition of a First Nations child which is inconsistent with how NAN First Nations have traditionally understood membership and belonging; and, (2) given regional mobility in Northwestern Ontario (including due to various reasons related to inadequacies of service provision and housing that can push people off reserve) and the many hurdles to obtaining *Indian Act* status, there is a real risk that a group of children will be excluded under Jordan's Principle simply because they cannot meet the twin criteria of on-reserve and eligibility for *Indian Act* status. NAN has consistently rejected both residency on reserve and/or *Indian Act* status as appropriate proxies for membership and belonging within NAN communities, as detailed below.

II. NAN'S POSITION ON RESERVE RESIDENCY AND INDIAN ACT STATUS

8. As I have raised in many previous affidavits submitted to this Tribunal, NAN has a Chief's Committee regarding Children, Youth and Families ("CCCYF"). The CCCYF met recently on February 5-7, 2019, in Toronto. At this meeting, the Chiefs discussed this specific issue of how to define a First Nations child for purposes of application of Jordan's Principle. Three

messages were consistently loud and clear: (1) The broader issue of membership within a First Nation is up to the individual First Nation to decide; (2) First Nations have inherent jurisdiction over their children, wherever they reside; (3) many of our people are classified as non-status under the *Indian Act* – nevertheless, they remain our brothers, sisters, and relatives.

9. In summary, NAN is not interested in participating in a definitional exercise that will exclude those we recognize as our relations, especially given the potential consequences: that children in need may be denied funding for services under Jordan's Principle. NAN recognizes that variations of this 'definitional game' have only served to disenfranchise our people, have contributed to broken family ties, and have led to tangible harm.
10. The foundational principle *must be* that all First Nations are entitled to define their own membership according to their laws, customs and traditions. This principle is clearly stated in *A Declaration of Nishnawbe-Aski (The People and the Land)* ("the Declaration"), issued on July 6, 1977, to the then Ontario Premier William Davis and to the People of Canada. The Declaration is an assertion of the inherent rights and jurisdiction possessed by the people of NAN, stating "We declare that all laws, rules, regulations, orders-in-council and act [*sic*] passed on or enacted by you and your federal, provincial, and territorial governments, which interfere with our sovereignty, must be re-examined in the light of our position. The right to make laws which govern our people must be returned to our people." A true copy of the Declaration is attached to my affidavit as **Exhibit "A"**.
11. This foundational principle is at odds with how Canada currently defines eligibility under Jordan's Principle. NAN Chiefs have consistently rejected the concept of "residency" as a

way of defining membership. This position is reflected in a number of resolutions, passed by the NAN Chiefs, which state, in summary, that First Nations have inherent jurisdiction over children and families wherever they may reside. On January 21, 2016, the NAN Chiefs-in-Assembly passed “Resolution 16/14 First Nation Inherent Jurisdiction over Children Wherever they Reside” (“Resolution 16/14”), which states that “First Nations have inherent jurisdiction over the well-being and protection of their children regardless of residency” and “that NAN Chiefs-in-Assembly hereby confirm that Indigenous Peoples have inherent jurisdiction for our children and families wherever they may be”. A true copy of Resolution 16/14 is attached to my affidavit as **Exhibit “B”**.

12. This position was reiterated by the NAN Chiefs-in-Assembly on August 9, 2017, when the Chiefs passed “Resolution 17/61 Inherent Rights and Responsibilities for our Children” (“Resolution 17/61”). Resolution 17/61 refers to Resolution 16/14, and further states “First Nations have inherent rights over the well-being and protection of our children regardless of residency” and that “NAN Chiefs-in-Assembly hereby reaffirm that the Indigenous Peoples of NAN have inherent rights to care for our children and families wherever they may be.” A true copy of Resolution 17/61 is attached to my affidavit as **Exhibit “C”**.
13. NAN has consistently rejected the use of residency on reserve as a metric of membership due to the geographical realities of living in Northwestern Ontario: where most NAN communities are remote; where mobility in the region is high; and, where members of these communities must reside off-reserve in order to receive essential services or because the land the community is based on is not safe to inhabit. An excerpt from a 2010 book, *Treaty No. 9: Making the Agreement to Share the Land in Far Northern Ontario in 1905*, by John S. Long, provides a chart demonstrating on-reserve and off-reserve numbers for NAN

communities. The author specifies that the numbers come from publicly available data. The percentage of **off-reserve** members for NAN communities ranged from as low as 3% in the case of Wapekeka to as high as 100% in the case of Aroland (my community). While these precise figures are now out of date and may not reflect membership as determined by each First Nation (i.e. may be limited to people with *Indian Act* status), the fact that significant numbers of NAN members reside off-reserve remains a reality to the present day. The relevant excerpt from John S. Long's 2010 book is attached to my affidavit as **Exhibit "D"**.

14. The NAN Chiefs have also held a consistent position with respect to recognizing those without *Indian Act* status as our relations. On August 25, 1982, the NAN Chiefs-in-Assembly passed "Resolution 82/9 Recognizing Non-Status Indians" ("Resolution 82/9") which states the following:

WHEREAS many of our people are non-status Indians; and,

WHEREAS many of these people that are classified as non-status Indians by the Governments are our bothers, sisters, and relatives;

THEREFORE BE IT RESOLVED that all our communities on Nishnawbe-Aski recognize non-status Indians as part of our communities; and,

THEREFORE BE IT FURTHER RESOLVED that the Executive Council of the Nishnawbe-Aski take actions to ensure that the rights of these people are protected.

15. A copy of Resolution 82/9 is attached to my affidavit as **Exhibit "E"**.
16. On March 3, 1983, the NAN Chiefs-in-Assembly passed "Resolution 83/15 Band Status" ("Resolution 83/15") which states the following:

WHEREAS, the non-status Indians in our communities are our brothers and sisters; and,

WHEREAS, we the Nishnawbe-Aski agreed to protect their rights as Indians of our Nation.

THEREFORE BE IT RESOLVED that we the Nishnawbe-Aski make it clear at all First Ministers' Conferences that the non-status Indians are an integral part of our Nation;

BE IT FURTHER RESOLVED that we demand the First Ministers to recognize the restoration of rights which the non-status Indians have been deprived.

17. A copy of Resolution 83/15 is attached to my affidavit as **Exhibit "F"**.
18. On August 11, 1983, the NAN Chiefs-in-Assembly passed "Resolution 83/11 Band Status" ("Resolution 83/11") which states the following:

WHEREAS, the Nishnawbe-Aski Nation is made up of a number of communities; and,

WHEREAS, not all of these communities are recognized (as real Indian Communities) by the Department of Indian Affairs,

THEREFORE BE IT RESOLVED that the Executive Council actively lobby with the Federal Government to aquire [sic] de facto band status for all unrecognized communities within the Nishnawbe-Aski Nation

19. A copy of Resolution 83/11 is attached to my affidavit as **Exhibit "G"**.
20. The above resolutions demonstrate what the NAN CCCYF reiterated at our recent February 2019 meeting: (1) The broader issue of membership within a First Nation is up to the individual First Nation to decide; (2) First Nations have inherent jurisdiction over their children, wherever they reside; (3) many of our people are classified as non-status under the *Indian Act* – nevertheless, they remain our brothers, sisters, and relatives.
21. Given the realities of mobility (both forced and voluntary) of members of NAN communities, and the historical and current day wrongs inflicted through control of *Indian Act* status, NAN has never accepted residency and *Indian Act* status as helpful proxies for membership and determining rights. NAN rejects Canada's reliance on both concepts to determine who is eligible to receive services under Jordan's Principle.

22. It is for this reason that NAN will support the Caring Society's proposal, articulated at para. 31-33 of the Caring Society's factum, reproduced below:

31. Recognizing the Tribunal's acknowledgement of the key role of a Nation-to-Nation relationship and acknowledging the scope of the complaint, the Caring Society supports short-term (within 30 days of the Tribunal's order) and medium-term (by September 1, 2019) discussions between the parties regarding the following expanded parameters (d-f) for Canada's implementation of the Tribunal's orders regarding Jordan's Principle, in addition to those already acceptable to Canada (a-c):

- a. A child, whether resident on or off reserve, with *Indian Act* status;
- b. A child, whether resident on or off reserve, who is eligible for *Indian Act* status;
- c. A child, residing on or off reserve, covered under a First Nations self-government agreement or arrangement;
- d. Children, residing on or off reserve whom a First Nations group, community or people recognizes as belonging to that group, community or people, in accordance with the customs or traditions of that First Nations group, community or people;
- e. First Nations children, residing on or off reserve, who have lost their connection to their First Nations communities due to the operation of the Indian Residential Schools System, the Sixties Scoop, or discrimination within the FNCFS Program; and
- f. First Nations children, residing on or off reserve, who do not have *Indian Act* status and who are not eligible for *Indian Act* status, but have a parent/guardian with, or who is eligible for, *Indian Act* status.

32. Short-term discussions would focus on expanding the definition to include children whom a First Nations group, community or people recognizes as belonging to that group, community or people in accordance with the customs or traditions of that group, community or people. If Canada brings convincing evidence regarding concerns about a functional or procedural mechanism for identifying these children, this is something that can be discussed amongst the parties.

33. Medium-term discussions would focus on a process for including children who have lost their connection to their First Nations communities due to the operation of the Indian Residential Schools System, the Sixties Scoop, or discrimination within the FNCFS Program, with further deliberations by the Chiefs-in-Assembly being required regarding First Nations children who do not have, and are not

eligible for, *Indian Act* status but who have a parent/guardian with, or who is eligible for, *Indian Act* status.

III. NAN POSITION ON BEST INTEREST OF THE CHILD


23. Throughout the materials filed by the other parties, there is consistent reference to the “best interests of the child” (“BIC”) without critical reflection on the term. BIC has long been used in ways that are incompatible with the human rights and well-being of First Nations children and with First Nations’ inherent rights. NAN understands that BIC is a commonly used term, found in statute, United Nations declarations and caselaw, including decisions and orders issued in this proceeding; however, NAN has consistently raised concerns regarding the use of this term, in particular, at the Consultation Committee. In the Fall of 2018, turning its mind to potential federal legislation regarding First Nations child welfare, the CCCYF articulated the following regarding BIC, and discussed rejecting the term completely:

The federal government has utterly failed our children and families. In the name of “best interests of the child”, first the Indian Residential Schools system and then the child welfare system have ripped our children from their families, communities, nations, and lands, inflicting great trauma. The effects of these actions are ongoing and intergenerational. Canada and its provinces have no credibility asserting a right or ability to act in our children’s best interests.

24. As the CCCYF explained, many historical and current abuses against Indigenous children have been conducted in the name of BIC. NAN wishes to raise again that this term is fraught with a legacy that permitted the Indian Residential Schools System, the 60s Scoop and the current-day high numbers of apprehended Indigenous children (what some call the “Millennial Scoop”), all in the name of BIC. Whenever that term is used, we must ask ourselves: who has the power to define the term and how has this term actually impacted children, historically and to the present day? Is it possible to ensure the term is used in ways

compatible with, rather than detrimental to, the human rights and well-being of First Nations children and with First Nations' inherent rights and jurisdiction?

25. I make this affidavit for the purposes of NAN's participation in the upcoming motion scheduled for March 27-28, 2019, where the issue to be heard by the Tribunal concerns the definition of "First Nations children"/ "First Nations child" for the purposes of application of Jordan's Principle, and for no other or improper purpose.

AFFIRMED BEFORE ME this)
20th day of March, 2019)
in the City of Thunder Bay)
in the Province of Ontario.)
)
A Commissioner etc.)


Bobby Narcisse

This is Exhibit "A" referred to in the Affidavit of Bobby Narcisse, sworn before me, on this 20th day of March 2019.

A handwritten signature in blue ink, appearing to read "K. J. [unclear]", written over a horizontal line.

A commissioner for taking affidavits

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A Declaration of Nishnawbe-Aski

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Declaration of Nishnawbe-Aski

First Nations in NAN

Executive Council

Advisory Councils

Our Partners

Tribal Councils in NAN

2018 Keewaywin Awards

A Declaration of Nishnawbe-Aski

(The People and the Land)

By the Ojibway-Cree Nation of Treaty #9 to the People of Canada.

Delivered by the Chiefs of Grand Council Treaty #9 to Ontario Premier William Davis and His Cabinet in the City of Toronto
Wednesday, July 6, 1977.

Canada:

We will use a second language to speak to you, in recognition of your inability to understand our language.

Once again we want you to understand us. For over 350 years you have failed to recognize the unique lifestyle of the Nishnawbe-Aski. It is so crucial that you understand today as tomorrow may be too late.

We the people and the land declare our nationhood. We, of the Cree and Ojibway nation who come from within your boundaries of Ontario, Manitoba and Quebec, and who live in the Ontario North at the height of land known as the Arctic Watershed, declare ourselves to be a free and sovereign nation. We bring to you a declaration of independence.

We say to you that we have the right to govern our own spiritual, cultural, social and economic affairs. We will describe to you how we are going to secure our sovereignty. We are also here because we want your government to play a role, in our return to self-government. We ask that you become involved in our right to develop our individual communities. We intend to make them as viable as they were before the white man came. You are the only people who have ever questioned our sovereignty. Our rights and entitlement to his land were inherited from our forefathers. Unlike you, we have no memory of an existence in other lands across the sea. We have prior rights to the custody of this land, which precede and supercede all of your claims.

This custody must remain with us. It is our sacred duty to pass it on to our unborn children. We do not accept the illegal seizures of our land by the Europeans, and their descendants. We will protect these custodian rights by whatever means necessary.

We declare that all laws, rules, regulations, orders-in-council and act passed on or enacted by you and your federal, provincial, and territorial governments, which interfere with our sovereignty, must be re-examined in the light of our position. The right to make laws which govern our people must be returned to our people.

On having regained the ability to govern ourselves we will insist that Treaty #9 be re-negotiated. Your government had refused to live up to the terms, and the spirit of the Treaty. This treaty reads in part, that "His Majesty the King hereby agrees with the said Indians that they shall have the right to pursue their usual vocations of hunting, trapping, and fishing throughout the land."

We agreed to share. We lived up to the terms of our agreement. We kept the peace, paid the honour to the European sovereign, allowed the white man to settle and live according to his laws, and permitted his religions and cultures to be introduced to our people.

You agreed to share. You said our rights would never be lost. You did not live up to the agreement. You took most of our land, outlawed our religious beliefs and practices, destroyed much of our animal life and forest, restricted our movements, stopped us from using our languages, and tried to convince us that our music, dances, and arts were barbaric.

Despite these overwhelming odds, we have survived the elements of conquest.

Your cultural genocide is about to end. In order to regain our freedom we must establish our own control, and return to our traditional philosophy of life. We recognize only one ruler over our nation – the Creator. He made us part of nature. We are one with nature, with all that the Creator had made around us. We have lived here since time immemorial, at peace with the land, the lakes and the rivers, the animals, the fish, the birds and all of nature. We live today as part of yesterday and tomorrow in the great cycle of life.

Unlike you, we have a sacred respect for the land. You have alienated life and land, by the exploitation of the natural resources. As a result of your greed there is a real possibility that our environment will be destroyed. If it is, we also will be destroyed because we are part of nature.

In 1977, Chief Simeon McKay stated: "Today, we are here realizing that there is somebody here on earth that wants to destroy everything on us. Remember what our grandfathers have told us; we should try and retain what the Great Spirit has provided for us. We are trying to keep and retain our ancestors' way before this means of livelihood is destroyed"

In your rush for materialistic gain, you are threatening nature's very limits. Now, it is our sacred duty to slow you down before she is destroyed.

Nishnawbe Aski Nation - Declaration of Nishnawbe-Aski

In Chief Emile Nakogee's statement of 1977, he said, "I am not against employment, it is a good thing. But the most important thing we must take into consideration is the land around us. It is also our income and we must not destroy it."

We are here with another unalterable principle: "Nishnawbe-Aski are not for sale!" We remember the legacy of Old Joseph, as he spoke to his son Chief Joseph in 1871: "My son, my body is returning to my Mother Earth, and my spirit is going very soon to see the Great Spirit Chief. When I am gone, think of your country. You are the chief of these people. They look to you to guide them. Always remember that your father never sold his country...this country holds your father's body. Never sell the bones of your father and mother."

This is a sad day, but we have been a sad people for many years. However, to our people, today is also an historical day. It is not often that a nation makes a declaration of independence.

We are not a new nation like you.

Only a few days ago we watched as you celebrated your Canada Day, and as we did, we thought what Canada Day meant to us. To the Treaty #9 Cree and Ojibway, 110 years of your confederation have meant 110 years of our disintegration. While you celebrated, we felt anger, frustration, regret and tolerance.

We can no longer permit the progressive rape of our mother earth, and its life-giving forces. We have our children to save. The continued existence of our race is a sacred mandate passed onto us by our ancestors.

Today our relationship with you must change. We will only accept your meaningful involvement. It will be on our terms or not at all.

To ensure our survival on the land we say that our aboriginal hunting and fishing rights will never be taken away. We do not recognize the fish and game laws which have eroded our way of life. We encourage and support our people: (a) to hunt and fish in any part of Treaty #9 for their own consumption during any season; (b) to trap anywhere in the Treaty #9 area; and (c) to trap without the infringements of tax regulations. If necessary, we will encourage our people to fill your courtrooms in our fight for our aboriginal rights.

We will defend our right to self-determination. However, we realize that this self-determination may take many different forms. Therefore, we are open to new, and innovative directions. Only on this context are we prepared to establish the legislative foundation of local government.

The success of our future will depend on our leaders of tomorrow. These young people are adjusting to new forms of knowledge. Our experience will also strengthen their involvement. We expect that you in turn will encourage your young people to understand our lifestyle.

Today, we are here to tell you who we are. We, the Nishnawbe-Aski have inalienable rights. They are:

1. the right to self-government.
2. the right to receive compensation for our exploited natural resources.
3. the right to receive compensation for the destruction and abrogation of our hunting and fishing rights.
4. the right to re-negotiate our treaty.
5. the right to negotiate with the elected governments of your society through appropriate levels of representation.
6. the right to approach the judicial, governmental and business institutions of your society in our quest for self-determination and local control.
7. the right of our elected chiefs to deal with your society's elected cabinets on an equal basis.
8. the right to approach other world nations to further the aims of the Cree and Ojibway nations of Treaty #9.
9. the right to use every necessary alternative to further the cause of our people.
10. the right to use all that the creator has given us to help all of mankind.

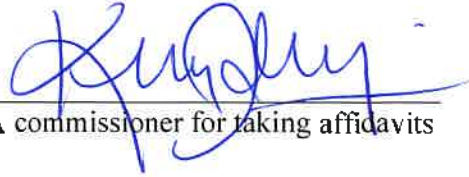
The solutions to our problems must come from within our local communities. The right to deal with those problems must rest with our people. We will regain our independence only through legislation that recognizes and supports our form of local government.

Our nationhood itself is sacred and cannot be negotiated. However, we are ready to start negotiating the implementation of this nationhood. For any nation to exist, it must have legislation that enhances its self-reliance and its local control.

We will now deal with the mechanics and processes of our sovereignty. Our primary objective is the attainment of spiritual, cultural, social and economic independence.

[Click Here for Remainder of Document](#)

This is Exhibit "B" referred to in the Affidavit of Bobby Narcisse, sworn before me, on this 20th day of March 2019.

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A commissioner for taking affidavits



Nishnawbe Aski Nation

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100 Back Street, Unit 200 Thunder Bay, ON P7J 1L2
Tel: (807) 623-8228 Fax: (807) 623-7730

RESOLUTION: 16/14

FIRST NATION INHERENT JURISDICTION OVER CHILDREN WHEREVER THEY RESIDE

WHEREAS Nishnawbe Aski Nation (NAN) Chiefs are committed to ensuring the safety and well-being of all of our children, including the protection of cultural safety, as directed by the Creator and based on our traditional values;

WHEREAS First Nations have inherent jurisdiction over the well-being and protection of their children regardless of residency;

WHEREAS current provincial legislation and service delivery do not coincide with our inherent jurisdiction over our children;

WHEREAS First Nations have the right to establish laws programs, agencies and services to support their families and protect their children;

THEREFORE BE IT RESOLVED that NAN Chiefs-in-Assembly hereby confirm that Indigenous Peoples have inherent jurisdiction for our children and families wherever they may be;

FINALLY BE IT RESOLVED that the NAN Executive Council is mandated to work on the development of First Nations laws and governance mechanisms for the overall well-being of our children and families.

DATED AT THUNDER BAY, ONTARIO THIS 21st DAY OF JANUARY 2016.

MOVED BY: Proxy Earl Cheechoo
Moose Cree First Nation

SECONDED BY: Chief Andrew Solomon
Fort Albany First Nation

CARRIED


Grand Chief Alvin Fiddler


Deputy Grand Chief

www.nan.on.ca

This is Exhibit "C" referred to in the Affidavit of Bobby Narcisse, sworn before me, on this 20th day of March 2019.

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A commissioner for taking affidavits



Nishnawbe Aski Nation

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RESOLUTION 17/61: INHERENT RIGHTS AND RESPONSIBILITIES FOR OUR CHILDREN

WHEREAS Nishnawbe Aski Nation (NAN) Chiefs passed Resolution 16/14 *First Nation Jurisdiction over Children Wherever They Reside*;

WHEREAS NAN Chiefs are committed to ensuring the safety and well-being of all of our children, including the protection of cultural safety, as directed by the Creator and based on our traditional values;

WHEREAS First Nations have inherent rights over the well-being and protection of our children regardless of residency;

WHEREAS our responsibility to care for our children is an exercise of our inherent rights and is not directed to asserting territorial jurisdiction outside of NAN's territory;

WHEREAS the provision of services to the children and families who live in Thunder Bay, but are members of First Nations served by Tikinagan Child and Family Services (Tikinagan), has been an issue since at least 2000;

WHEREAS Dilico Anishinabek Family Care (Dilico) has commenced a legal action against Tikinagan to prohibit Tikinagan from providing any services to any children in Thunder Bay;

WHEREAS Dilico's position is contrary to the repeatedly stated position of the NAN and Tikinagan area First Nations;

WHEREAS current provincial legislation and service delivery do not coincide with our inherent rights over our children;

THEREFORE BE IT RESOLVED that NAN Chiefs-in-Assembly hereby reaffirm that the Indigenous Peoples of NAN have inherent rights to care for our children and families wherever they may be;

FURTHER BE IT RESOLVED that NAN Chiefs-in-Assembly support the First Nations that are represented by Tikinagan in their struggle to serve their children and families wherever they live and to practice their form of Mamow Obiki-ahwahsoowin (Mamow) Customary Care;

RESOLUTION 17/61: INHERENT RIGHTS AND RESPONSIBILITIES FOR OUR CHILDREN

FURTHER BE IT RESOLVED that the NAN Executive Council shall continue to:

- a. vigorously advocate with the Minister of Children and Youth Services (MCYS) to recognize the inherent right of NAN First Nations to serve their children and families in Thunder Bay through the agency of their choice;
- b. direct NAN staff to continue to strongly advocate this position in all of their dealings with MCYS officials;
- c. initiate a process to lobby the Robinson Superior Chiefs to solicit their support for Tikinagan's position;


FURTHER BE IT RESOLVED that NAN Chiefs-in-Assembly encourage all Tikinagan First Nations to pass Band Council Resolutions (BCRs) or send letters to Dilico and the MCYS stating their support of Tikinagan, and their opposition to the position taken by Dilico;

FURTHER BE IT RESOLVED that NAN Chiefs-in-Assembly urge all First Nations to recognize the Tikinagan Area First Nation's Mamow Care Agreements and to refuse to sign Dilico's Mikinaak Agreements for the care of their children;

FINALLY BE IT RESOLVED that MCYS must recognize that Tikinagan First Nations do not want to be served by Dilico and must designate Tikinagan as a Children's Aid Society with full authority to serve its children and families in the City and District of Thunder Bay.

DATED AT LAC SEUL FIRST NATION THIS 9TH DAY OF AUGUST 2017.

MOVED BY: Chief Bart Meekis, Sandy Lake First Nation
SECONDED BY: Chief Lorraine Crane, Slate Falls First Nation
DECISION: **CARRIED**
ABSTENTION: Chief Dean Owen, Pikangikum First Nation



Grand Chief Alvin Fiddler



Deputy Grand Chief

This is Exhibit "D" referred to in the Affidavit of Bobby Narcisse, sworn before me, on this 20th day of March 2019.

A handwritten signature in blue ink, appearing to be "K. King", written over a horizontal line.

A commissioner for taking affidavits

predecessors, may some day reject McGuinty's plan (just as the federal Kelowna Accord, signed in November 2005 by Prime Minister Paul Martin, was repudiated by Stephen Harper, his socially conservative and unilateralist successor).⁴³ Indeed, Harper's neo-conservative government has proposed changes to the federal Navigable Waterways Protection Act without consulting First Nations.⁴⁴

In December of 2009, on the eve of the Copenhagen Climate Conference, the Manitoba government announced plans to protect its own boreal forest. News accounts emphasized that mining, logging, hydroelectric development, and oil and gas exploration would be banned, welcome news for the polar bears, beluga whales, caribou, and birds that live there. Only later, if at all, did news accounts mention that Indigenous and treaty rights would also be protected in the region – indirectly acknowledging that First Nations not only lived there but were still attached to the land.⁴⁵

NISHNAWBE ASKI NATION

NAN is comprised of forty-nine constituent First Nation communities (see figure 1.1), with an aggregate population of 45,000 living both on- and off-reserve.⁴⁶ About 20 per cent of NAN's population is from Treaty No. 5 and the remaining 80 per cent from Treaty No. 9 (although that distinction was an arbitrary one made by officials in Ottawa and not by the people themselves).

Slightly more than a third of NAN First Nation members live off-reserve. Aroland, Flying Post, and Missanable Cree, for example, are entirely off-reserve. The proportion residing off-reserve is much higher for Treaty No. 9 (43 per cent) than for Treaty No. 5 (12.5 per cent), but there is much variation, as the table below indicates. Table 6.1 was constructed from public documents, which are only as accurate as the source data. Ahiitwinni has a membership of 915, 35 per cent off-reserve.⁴⁷

Table 6.1
NAN Treaty First Nation population (on- and off-reserve)

SAN First Nations	On-reserve ^a	Off-reserve ^b	Total	Off-reserve (%)
THELTY NO. 9				
Ahiitwinni ^c	2,590	1,515	4,105	37
Aroland ^d	0	225	225	100
Akwapaokai	1,683	1,391	3,074	45
Bearskin Lake	438	422	860	49
Bonswick House	1,180	473	1,653	72
Car Lake	537	166	703	16
Chapleau Cree	83	287	370	78
Chapleau Ojibway	22	8	30	20
Constance Lake	782	722	1,504	48
Ehameoong	1,333	942	2,275	41
Flying Post	0	164	164	100
Fort Severn	501	132	633	21
Gonoogaming	168	605	773	78
Honeoyie	2	2	4	7
Kasabonka Lake	925	38	963	4
Kingfisher Lake	465	35	500	7
Kiwanamiyhooseb	953	428	1,381	31
Marren Falls	320	294	614	45
Manichewin	39	800	839	93
Mungami	170	108	278	64
McDowell Lake	22	31	53	58
Mihkeegannang	1,038	579	1,617	36
Missanable Cree	0	360	360	100
Moore Cree	1,686	2,192	3,878	58
Mukar Dan	212	182	394	46
Neskantago	320	88	408	22
Peslunmik	352	108	460	25
South Caribou Lake	704	220	924	22
Sudipou Lake	474	346	820	40
Tegaron	72	134	206	65
Two Falls	9	60	69	87
Uyawa Ingamou	125	251	376	67
Wagahig	140	148	288	51
Wekabik	382	13	395	3
Woodkewin	80	17	97	23
Wopole	684	92	776	12
Wopole	257	270	527	51

Table 6.1 (continued)
 NAN/treaty First Nation population (on- and off-reserve)

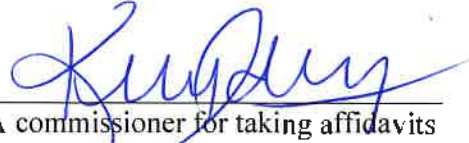
Whitewater	90	60	150	40
Wunnumin Lake	521	93	614	15
SUBTOTAL	18,289	13,904	32,203	43
TREATY NO. 5				
Deer Lake	976	183	1,139	16
Keewaywin	362	310	672	46
Koocheching	40	30	70	43
North Spirit Lake	423	40	463	9
Pikangikum	2,169	84	2,253	4
Poplar Hill	467	16	483	3
Sandy Lake	2,327	300	2,627	11
SUBTOTAL	6,764	963	7,707	13
TOTAL	25,053	14,567	39,910	36

* Includes on own or other reserve or Crown land.

^b Includes members of the Fort Albany and Kashechewan First Nations.

^c Includes members from Long Lake 58 and Fort William First Nations (1850 Robinson-Superior Treaty).

This is Exhibit "E" referred to in the Affidavit of Bobby Narcisse, sworn before me, on this 20th day of March 2019.



A commissioner for taking affidavits

**NISHNAWBE-ASKI NATION
GRAND COUNCIL TREATY NO. 9**

71 Third Avenue
Timmins Ontario
P4N 1C2

Tel (705) 267-7911
Telex 067-81595

RECOGNIZING NON-STATUS INDIANS

RESOLUTION 82/9



WHEREAS many of our people are non-status Indians; and,

WHEREAS many of these people that are classified as non-status Indians by the Governments are our brothers, sisters, and relatives;

THEREFORE BE IT RESOLVED that all our communities on Nishnawbe-Aski recognize non-status Indians as part of our communities; and,


THEREFORE BE IT FURTHER RESOLVED that the Executive Council of the Nishnawbe-Aski take actions to ensure that the rights of these people are protected.

DATED THIS 25TH DAY OF AUGUST, 1982.

MOVED BY: Chief Ennis Crowe
Fort Severn

SECONDED BY: Chief Victor Chapais
Longlac #77

CARRIED.


Executive Director


Deputy Grand Chief

This is Exhibit "F" referred to in the Affidavit of Bobby Narcisse, sworn before me, on this 20th day of March 2019.


A commissioner for taking affidavits

NISHNAWBE-ASKI NATION
GRAND COUNCIL TREATY NO. 9

Third Avenue
Toronto, Ontario

P4N 1C2

Tel: (705) 267-7911

Telex: 067-81595

NON-STATUS INDIAN

RESOLUTION 83/15



WHEREAS, the non-status Indians in our communities are our brothers and sisters; and,

WHEREAS, we the Nishnawbe-Aski agreed to protect their right as Indians of our Nation.

THEREFORE BE IT RESOLVED that we the Nishnawbe-Aski make it clear at all First Ministers' Conferences that the non-status Indians are an integral part of our Nation;

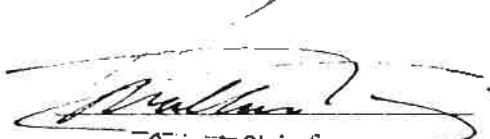
BE IT FURTHER RESOLVED that we demand the First Ministers to recognize the restoration of rights which the non-status Indians have been deprived.

DATED THIS 3RD DAY OF MARCH, 1983.

MOVED BY: Chief Reg Louttit
Attawapiskat Band

SECONDED BY: Chief Edward Machimity
Savant Lake Band

CARRIED.


Grand Chief


Executive Director

This is Exhibit "G" referred to in the Affidavit of Bobby Narcisse, sworn before me, on this 20th day of March 2019.

A handwritten signature in blue ink, appearing to read "K. H. Kelly", written over a horizontal line.

A commissioner for taking affidavits

NISHNAWBE-ASKI NATION
GRAND COUNCIL TREATY NO. 9

Third Avenue
Timmins Ontario
P4N 1C2
Tel (705) 267-7911
Telex 067-81595



BAND STATUS
RESOLUTION 83/11

WHEREAS, the Nishnawbe-Aski Nation is made up of a number of communities; and,
WHEREAS, not all of these communities are recognized (as real Indian Commu-
nities) by the Department of Indian Affairs,


THEREFORE BE IT RESOLVED, that the Executive Council actively lobby with
the Federal Government to aquire de facto band status for all unrecog-
nized communities within the Nishnawbe-Aski Nation.

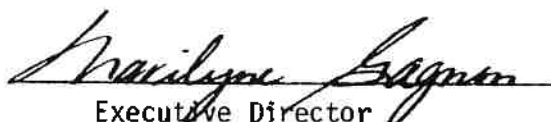
DATED THIS 11TH DAY OF AUGUST, 1983

MOVED BY: Chief Doreen Cachagee
Chapleau Cree Band

SECONDED BY: Chief Leonard Crane
Slate Falls Band

CARRIED.


Grand Chief


Executive Director