

Court File No. T-1542-12

**FEDERAL COURT**

**CLASS PROCEEDING**

**B E T W E E N :**

**CHIEF SHANE GOTTFRIEDSON, on behalf of the TK'EMLÚPS TE  
SECWÉPEMC INDIAN BAND and the TK'EMLÚPS TE  
SECWÉPEMC INDIAN BAND, and CHIEF GARRY FESCHUK, on  
behalf of the SECHELT INDIAN BAND and the SECHELT INDIAN  
BAND**

**Plaintiffs**

**and**

**HIS MAJESTY THE KING IN RIGHT OF CANADA  
as represented by THE ATTORNEY GENERAL OF CANADA**

**Defendant**

**AFFIDAVIT OF CHIEF SHANE GOTTFRIEDSON**

I, Chief Shane Gottfriedson, of the City of Kamloops, on the Tk'emlúps te Secwépehc territory, AFFIRM:

1. I am the former Chief of the Tk'emlúps te Secwépehc Indian Band ("Tk'emlúps te Secwépehc") and one of the representatives for the Band Class in this action. As such, I have personal knowledge of the facts and matters to which I depose save and except those which are stated to be based on information and belief and where so stated I verily believe the same to be true, except where stated to be for another purpose.

2. This affidavit is affirmed in support of the plaintiffs' motion for approval of the settlement agreement entered into by the plaintiffs and the defendant and executed January 18, 2023 (the "**Settlement Agreement**").

3. If approved by the Court, the Settlement Agreement will resolve the claims of the Band Class Members in this class action, concluding this proceeding in its entirety.

**A. Appointment as a representative plaintiff**

4. On June 18, 2015, Justice Harrington certified this case as a class action and appointed me, on behalf of the Tk'emlúps te Secwépemc Indian Band, as one of the representative plaintiffs for the Band Class.

5. I understand that my role as a representative plaintiff has been to represent the best interests of the Band Class, and I have fulfilled this role to the best of my ability since the lawsuit was started.

6. On November 4, 2013, I swore an affidavit in support of the motion for certification. That affidavit set out my background, and what I observed from my family and community about our Secwépemcstin language, both growing up and in positions of leadership in the community. I have included here only a summary of that information.

**B. Personal history and my traditional learning**

7. I was born on October 7, 1965. My parents, Violet Gottfriedson and Charlie Montgomery, are now deceased.

8. I lived and grew up on Kamloops Indian Reserve #1 at Kamloops, British Columbia.

9. I was informed by my mother, Violet Gottfriedson, and believe, that she attended the Kamloops Indian Residential School ("**KIRS**") as a Day Scholar from approximately 1958 until 1963.

10. I grew up living with my mother until I was 16 years of age. I also spent time living with my aunt, Muriel Sasakamoose, and my uncle, Larry Ahdemar, when I was about 17 years of age, and my aunt, Gail Gottfriedson, for approximately one year when I was 18 years of age.

11. When I was a child, my mother told me very little about her experiences at KIRS. However, as I grew older my mother told me about the following experiences at KIRS (among others), which I believe:

- (a) students were often punished for speaking our language at KIRS;
- (b) she saw other students called 'savages' by the school staff in her presence, and she herself was called a 'savage';
- (c) the students were taught that speaking our language was bad, and that they should not respect our culture, customs, and traditions;
- (d) in this way, my mother and many other KIRS students conditioned to disrespect our elders, who were the keepers of our traditional knowledge and language.

12. My mother's account was consistent with what I was told by so many members of our community who attended KIRS. Shortly before my mother's death, she told me more about what horrible things happened to her at the residential school. I have been informed that my mother described this in her affidavit filed in support of certification and in her cross examination on that affidavit. I am not going to repeat what my mother told me although Canada's lawyers asked me to do so in their cross-examination of me on discovery.

13. My grandmother, Mildred Gottfriedson, taught me about our culture, traditions, dances, drumming and singing. She also taught me Secwépemc traditions of respect, honesty, and the importance of family in our culture. My granny taught me and showed

me where to find the berries and Indian medicines that we traditionally use, and she introduced me to our traditional crafts.

14. My grandfather, Gus Gottfriedson, taught me our traditional songs and uses of lands. He was an amazing story-teller, who told me stories about his life, the families of our community, and how life used to be on the reserve. He told me these stories in English as I did not know Secwépemcstin.

15. My mother never criticized our culture or the use of Secwépemcstsin when I was a child. However, she did not speak to me in our language when I was growing up.

16. As we are traditionally an oral society, we learn from our elders. Indeed, I was taught ancestral stories of the Tk'emlúps people by members of my family and my elders. I learned from my elders about how life was before the residential schools.

17. When I was with my maternal grandparents as a child, I would hear them speak with their older friends and with elders in our language a lot when I was a child. However, I did not learn the language at that time.

18. I started to seek out my own Aboriginal culture when I was about 23 years old. Tk'emlúps te Secwépemc elders taught me our oral histories and traditions. They spoke Secwépemcstin. Although they would usually speak about our land in Secwépemcstin, they had to explain to me about our lands and our history in English. They taught me in English about Tk'emlúps' beliefs and spirituality, ceremonies, traditions, the land and resources, songs, dances and our histories.

19. Traditional practices were taught within families, just as I was taught by my grandparents, my elders and medicine and spiritual people of Tk'emlúps te Secwépemc. I was taught that before contact with non-Aboriginal persons, our ancestors were very traditional. That is, what we now refer to as 'traditional practices' were an everyday way of life. Our people lived off the land. They participated in sweatlodge ceremonies, fasts, berry and medicine picking, and many ceremonial and spiritual events, such as coming of age for boys and girls, weddings, and our four seasons ceremonies.

20. I was taught by my elders that, pre-contact, every member of Tk'emlúps te Secwépemc spoke Secwépemcstsin. Our language was a way of life, as it was the main form of communication, was taught within families, and was traditionally the means by which we transmitted our values, beliefs, customs and traditions. Our language was how the Tk'emlúps te Secwépemc identified ourselves and maintained our traditions, history and culture. In addition to our language, our ancestors spoke the languages of other neighboring First Nations, including other dialects of Secwépemcstsin. Before the establishment of the residential school, many of our members also knew other Indigenous languages, such as Chinook (our trade language), Thompson, Okanagan, St'at'imc, and Coast Salish to name a few.

21. There were no Secwépemcstsin language courses when I was growing up. The education system I was raised in never helped me to learn my language. There was a generational gap for me and my generation, as we were never given the opportunity to learn our language as children.

22. Unfortunately, because I was not taught my language when I was growing up, I know from personal experience that it is complex and difficult to learn, especially as an adult. I can only speak what I would describe as equivalent to a kindergarten level of the Secwépemcstsin language. For example, I am able to introduce myself in my language. I am embarrassed by my inability to practice and speak my own language.

23. This language barrier makes it challenging for me to learn about Secwépemc customs, teachings, and our lands, which elders traditionally taught younger generations about in Secwépemcstsin. Though I know the stories and history of the Secwépemc, my knowledge is very basic.

24. The language barrier also limited my ability to practice our traditions, or participate in ceremonies and prayer, even during my period as the Band's Chief. Though I felt it right, in my heart, to attend these ceremonies, because of my limited ability to speak our language, I felt lost at times and out of my comfort zone.

**C. Tk'emlúps te Secwépemc Indian Band and my experience in positions of leadership**

25. Tk'emlúps te Secwépemc is governed by its Kúkpi7 (Chief) and seven Band Council members. In general, the Chief and Council are elected by Tk'emlúps te Secwépemc members and hold their respective positions for a three-year term.

26. In 1992-1994, I served as an elected Band Councilor. In 2003, I was elected Chief of Tk'emlúps te Secwépemc for the first time. I was re-elected for three subsequent terms.

27. As the Chief, I needed to know more of our Tk'emlúps te Secwépemc history. I learned the history of our Band by talking to my elders. Part of the way I learned about the history of Tk'emlúps te Secwépemc is by elders talking to me and telling me what the community was like before the KIRS was established.

28. As the Chief, I was the political leader and a member of Council. I sat on various committees, including committees responsible for the cultural, physical, spiritual and mental well-being of our members. I was also in regular communication with our Band members who would contact me at all hours in cases of emergency.

29. As a result, the leadership position put me in a unique position to observe the impacts of the KIRS on our Band.

30. Based on what my Elders told me (which I believe) and my own observations, the transmission of our language from generation to generation ended as a result of the horrific experiences that students endured for speaking our language at KIRS.

31. I have observed that Secwépemcstsin is no longer the primary language spoken within the Tk'emlúps families. It is therefore no longer taught within the family and passed onto future generations of Tk'emlúps te Secwépemc members.

32. This challenge of learning the language as adults is compounded by the fact that very few living Tk'emlúps are able to teach, write, read, or even speak Secwépemcstsin.

33. Based on my observations, when members of our community do not have Secwépemcstsin to take on the challenge of learning our traditions, spiritual practices or participating in our ceremonies, many lose their commitment to, and confidence and belief in the community. This loss of commitment is reflected in the steadily declining interest of our members in participation in Band government, community consultations, and councils.

34. During my tenure as the Chief of Tk'emlúps te Secwépemc, I attended many cultural events, including traditional dance ceremonies, burial ceremonies, and cultural celebrations with the members of our Band. This gave me the opportunity to observe the continuing loss of our culture and language as many of our elders have passed away.

35. One of my greatest concerns as Chief was that another generation of our people would be deprived of learning our language and culture because of the lack of knowledge and teachings from previous generations. I was concerned that we would continue to lose our connection to Secwépemcstsin and our traditions, histories, and spiritual practices.

36. The keepers of our language and culture are very few.

37. Our community Sk'elep School of Excellence teaches Secwépemcstsin, as well as our culture as part of its curriculum. Within the Secwépemc Nation, we have the Western, Eastern, and Northern Language Authority Groups controlled by our own people.

38. We are trying to revitalize our language and culture through our education system, but it is hard for my children's generation to become fluent in Secwépemcstsin. Because I am a descendant of a survivor of the KIRS, our language was not transmitted to me by my parents. Accordingly, my children and the children of many of my

generation, are unable to practice our language in the home. I do not have the ability to teach my children our language.

39. The Tk'emlúps te Secwépemc look seven generations ahead to plan. As a result of the government's policy of assimilation, our Band now faces the legacy of several earlier generations of Tk'emlúps te Secwépemc children being taught that their language and culture were not to be valued. This has had an impact on our entire community and we continue to address this impact.

40. The effects of the KIRS are intergenerational and will continue to affect my people for generations.

41. To my knowledge, there are very few Tk'emlúps te Secwépemc members who still speak our language.. In my generation in our family, about ten of us understand the language but cannot fluently speak our language.

42. Currently, very few Tk'emlúps te Secwépemc members are able to speak Secwépemcstsin fluently. As the political leader of our community, I, together with our Council, was committed to continue to help members that want to learn our traditions. However, it is critical that the Tk'emlúps te Secwépemc members are prepared to learn the traditions and accept our Tk'emlúps beliefs as I was taught by my Elders, and other spiritual leaders of our community.

#### **D. Impact of Residential School on the Band Class**

43. As a leader of our Band for over ten years, I had to continually work to address the pain suffered by our members and reflected in the lateral violence, alcoholism, substance abuse, suicides, behavioral issues and violence, both within families, and within our community. By lateral violence, I mean jealousy, hate, finger-pointing, bullying, backstabbing, shunning, and shaming – in other words, where members lash out at each other in our community as a result of being oppressed.



44. This is what I observed in Tk'emlúps while I was growing up, and it continues to the present day.

45. Based on what I have been told by my elders as to what occurred before I was born, and my own observations of our community members, the operation of the KIRS in our community has had serious adverse impacts on the Tk'emlúps te Secwépemc and its members. Generations of Tk'emlúps te Secwépemc members who attended the KIRS were prohibited from speaking Secwépemcstín, and lost pride in who they were as Secwépemc, leaving a legacy of learned behavior that they passed onto their children.

46. A lot of our members are ashamed that they cannot speak our language. We need to be able to teach our members their language.

47. Beyond language and culture, the KIRS left a legacy on the wellbeing of its students and their descendants, including serious problems including alcoholism, substance abuse, suicide and violence, a lack of individual trust authority figures, and a disinterest in the participation of our members in Band governance.

48. Based on my tenure as Chief, it is clear that the devastating cycle of learned behavior and lateral violence caused by Residential Schools has had serious impacts on our whole community.

49. Tk'emlúps te Secwépemc has further suffered by having the KIRS physically on the Band's land and in the community. The presence of this large red brick building in the centre of our community was, and continues to be, a constant reminder of the horrific experiences that many of our members suffered in that building. School and education are supposed to be a positive learning experience, but many of our members experienced the opposite in the KIRS building.

50. The 2021 discovery of about 200 unmarked graves at the school demonstrates how this facility is a constant reminder of the losses our Band has suffered as a result of the Residential Schools' legacy. I stress that our claim in this Action did not include

the impact of having unmarked graves of little children in the centre of our community. However, the fact of the discovery of what many residential school survivors already knew, that little children died and were buried anonymously, has just underlined the genocide that occurred with our people.

**E. The purposes of this litigation**

51. This litigation arises from the 2006 Indian Residential School Settlement Agreement (“IRSSA”), which resolved outstanding litigation arising from the long and tragic history of sexual, physical, and psychological abuse and other harms suffered by thousands of First Nations, Métis and Inuit children in Indian Residential Schools.

52. Broadly speaking, this litigation had two purposes from its inception. Firstly, to obtain compensation for Day Scholars and their descendants, who were specifically excluded from IRSSA’s Common Experience Payment because they did not live at Residential Schools. This aspect of the litigation was settled in 2021.

53. Secondly, this litigation was intended to obtain compensation for the Bands, which suffered community-level impacts, particularly on language and culture, as a result of Residential Schools.

**F. The proposed Band Class settlement**

54. I participated in the negotiation process. I attended meetings with Class Counsel along with representatives from shíshálh Nation and the Grand Council. Class Counsel met with me and representatives from shíshálh Nation and the Grand Council, and informed me about the terms of the proposed Settlement Agreement before it was signed, and they answered our questions. I have also reviewed the Settlement Agreement myself, and I understand it, and what it will mean for Band Class Members if it is approved by the Court.

55. In the course of negotiating the settlement, we were motivated by four core principles (the “Four Pillars”):

- (i) revival and protection of Indigenous languages;
- (ii) revival and protection of Indigenous cultures;
- (iii) wellness for Indigenous communities and their members;
- (iv) protection of heritage.

56. I understand the major terms of the Settlement Agreement to be as follows:

- (a) the government of Canada will make a payment of \$2.8 billion (the “Fund”) to a Trust or Foundation (the “Trust”) to fully and finally resolve the Band Class claim;
- (b) the Trust will be responsible for prudently investing the Fund, and for distributing the Fund to the 325 class members to support the Four Pillar principles in accordance with the Disbursement Policy;
- (c) the Disbursement Policy will include the following:
  - (i) **Planning funds:** Each Band Class member will receive an initial one-time payment of \$200,000 for the purposes of developing a plan to carry out one or more of the objectives and purposes of the Four Pillars;
  - (ii) **Initial Kick-Start Funds:** Upon receipt and review of a plan from a band, the Fund shall disburse the Initial Kick-Start Funds, which shall be equal to the Band’s proportionate share of \$325 million, adjusted for population and remoteness;
  - (iii) **Annual Entitlement:** Each Band will receive a share of annual investment income that is available for distribution, which will be equal to the Band’s proportionate share, adjusted for population and remoteness.

- (d) all monies that remain in the Fund after the payment of the Planning Funds and the Kick-Start Funds will be prudently invested by the Trust in accordance with professional investment advice;
- (e) the Trust will operate for a period of 20 years;
- (f) for the 20 year life of the Trust, the Annual Entitlement payments will be made from the investment income earned from the Fund, and the capital of the fund will be maintained;
- (g) at the end the 20 year life of the Trust, the remaining Fund consisting of the capital of the fund and any undisbursed investment income shall be disbursed to the Class, with each Band's share being equal to the Band's proportionate share of the remaining Funds;
- (h) the Trust will be responsible for determining the Disbursement Policy, which will consist of a 40% base rate to each band, and 60% for a per capita adjustment and a remoteness adjustment;
- (i) the Trust will be governed by a board of nine Indigenous directors, eight of which are chosen by the Representative Plaintiff Bands and by the Class members, and one of which is chosen by Canada;
- (j) the Trust will have regional representation;
- (k) in exchange for the benefits of the agreement, the Band Class members are deemed to agree to a release which will prevent them from bringing any legal claims in future against Canada regarding the collective harms caused to the Bands by the creation and operation of Indian Residential Schools. This release, however, will not release Canada from potential claims regarding children who died or disappeared while at Residential Schools;

- (l) lawyers' fees and expenses incurred over the course of the lawsuit will, subject to Court approval, be paid by the Government of Canada and will not be deducted from the compensation paid to the Band Class.

**G. My approval of the proposed settlement**

57. This settlement, like any settlement in a lawsuit, is not a “victory” for the Class Members; rather, it is a compromise. I believe that it is a fair and reasonable compromise, and I ask the Court to approve the settlement because I believe that it is in the best interests of the Band Class Members. This is a start to change for our Nations. It is now up to us.

58. At the January 21, 2023 press conference I spoke about the positive impact of this Settlement. I have appended a copy of my speaking notes as **Exhibit “A”** to this Affidavit. I confirm that I agree with what I stated at the public announcement of this settlement as set out in those speaking notes.

59. I believe that no amount of money could make right what has happened to our Nations as a result of the Residential School system. KIRS was an institution designed to take away our language and culture, and to weaken the bonds of members of our community with their family, and their Indigenous identity. Our community continues to live with the impacts of these experiences every day.

60. Money cannot undo that. Still, the benefits in the proposed settlement will give Bands the tools and resources necessary to continue the process of revitalizing and protecting our languages and cultures, and for starting to address the harmful legacy left by the Residential School system. The Settlement Agreement also removes the many risks and delays that would be involved in a time-consuming trial and potential appeals.

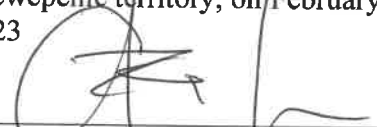
61. As a former leader of our community, I also particularly appreciate the importance of the funding that the Fund will provide for meaningful projects to

promote healing, wellness, education, language, culture, and heritage, in accordance with the Four Pillars.

62. Although money by itself cannot restore our language, culture and heritage to its pre-Residential Schools level, I believe that putting this money in the hands of Indigenous people to support Bands' revitalization efforts is an important step towards reconciliation and will help all Bands Class Members.

63. This affidavit is affirmed in support of the plaintiffs' motion for approval of the Settlement Agreement, and for no other or improper purpose.

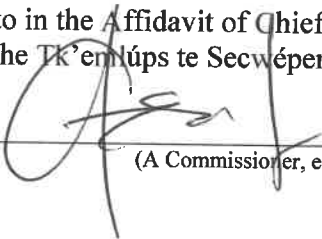
**AFFIRMED BEFORE ME** at the City of Kamloops, on the Tk'emlúps te Secwépemc territory, on February 21<sup>st</sup>, 2023

  
\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)

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\_\_\_\_\_  
**CHIEF SHANE GOTTFRIEDSON**

This is Exhibit "A" referred to in the Affidavit of Chief Shane Gottfriedson, affirmed before me at the City of Kamloops, on the Tk'emlúps te Secwépemc territory, on February 21<sup>st</sup>, 2023.



(A Commissioner, etc.)

**CHRISTIE STEWART**

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(Print Name and Expiry/Lawyer/Student-at-Law)

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## **Statement of former Chief Shane Gottfriedson**

We are here today because of a call I received on Dec 21, 2011 from my dear friend, and then fellow chief Garry Feschuk. Both he and I led Nations who had had Indian residential schools in their midst. The May 2008 Res School Settlement excluded many of our members who were sent to the schools but went home at night. This led to pain in our communities. We both saw that no other Nations in Canada were willing to stand up to right the wrong of leaving out Day Scholars and so we brought this action. We finally received a resolution for the individual Day Scholars 10 years later.

However, Garry and I both saw, and lived in, and were the leaders of nations who suffered deeply from lateral violence and dysfunction. What does that mean? It means that we had a hard time making good governance decisions for our communities. It means protests and blockades of our government offices by our own people. It means that no matter what we do to include our members and inform them, they fight with us and with each other. It means that it is very difficult to advance the interests of our nations. And, it also means, as both Garry and I saw, that outside non Indigenous governments, from Ottawa to the local town or city government, distrusted our government and did not take us seriously.



Garry and I agreed that Canada's policy of attacking our language and culture for over 120 years had devastated our own systems of government and laws and seriously impacted our languages. These impacts on our peoples were damages Canada caused with their policy of destruction of our language and culture, later re-labelled "assimilation policy" and then an effort to 'integrate Indigenous peoples' .

No Nation in Canada had taken this on but Garry and I decided that we would stand together for our own Day Scholars and also for all the Indigenous Nations in Canada who have had to live with Canada's racist legacy and try to govern our nations and our small pieces of land known as reserves.

I knew Len Marchand, a Secwepemc lawyer, (and now an Indigenous judge on our Court of Appeal). We went to Len and he recommended that he together with Peter Grant and John Phillips could advance this unprecedented case. There had been no class action for collective damages before or based on collective rights to language and culture.

Canada fought us all the way to the Courthouse steps and into the halls outside the Court room. Then 10 days before our trial was to start, Canada offered to settle. We are now representing 325 Indigenous Nations across Canada and we have

developed a settlement plan to allow for the Nations to work towards the four pillars of

- Revitalization of our languages
- Revitalization of our cultures
- Wellness for our peoples
- Heritage and commemoration

What is different is that this settlement allows our Indigenous Nations to control the process, not the non-Indigenous governments. We will manage and distribute the funds. We will provide it to all the 325 nations in a fair and objective manner and take into account added costs for larger populations and for remoteness.

The Nations will decide which of the four pillars that they will focus on. The Nations will decide how to invest or use the monies and will develop three 10 year plans for its implementation.

This is the beginning of a new era in Canada when the government in Ottawa is saying : We are giving over the authority to care for Indigenous peoples, and to right the wrongs that we as a government created, back to the Indigenous Nations of Canada.