

ALGONQUIN TRIBUNAL

RE: Inquiry conducted by the Algonquin Tribunal pursuant to section 76(d) of the Special Resolution of the Algonquin Negotiation Representatives on the Algonquins of Ontario Enrolment and Appeal Board (approved on April 20, 2021) regarding the historical person known as JACQUES KAMISKWABININCH (RIN #7189)

**DETERMINATION AND REASONS FOR DETERMINATION
REGARDING THE ALGONQUIN TRIBUNAL'S INQUIRY INTO
JACQUES KAMISKWABININCH (RIN #7189)**

Hearing Date:	December 14, 2022, Pembroke, Ontario
Date of Determination and Reasons:	January 16, 2023
Hearing Panel:	Ralph Lance (Chairperson), Shelley Holmberg, Jan Leroux, Deborah Moore, and Tom Vincent
Legal counsel:	Ben Mills (Advisory Member) Angel Li
Persons filing written submissions:	Joan Holmes (Enrolment Officer)
Persons making presentations at hearing:	Joan Holmes (Enrolment Officer)

**ALGONQUIN TRIBUNAL'S DETERMINATION REGARDING THE
INQUIRY INTO JACQUES KAMISKWABININCH (RIN #7189)**

The Algonquin Tribunal, pursuant to the provisions of Special Resolution of the Algonquin Negotiation Representatives on the Algonquins of Ontario Enrolment and Appeal Board (approved on April 20, 2021) and at the direction of the Algonquin Negotiation Representatives' Motion 20220422-01, has conducted an inquiry to determine whether Jacques Kamiskwabinih (RIN #7189) is identified in a historic record or document dated on or before December 31, 1921, in such a way that it would be reasonable to conclude that he was considered to be an Algonquin or Nipissing, or a sibling of such a person. A "sibling of such a person" means a person with a common Algonquin parent.

Further to its inquiry, the Algonquin Tribunal unanimously determines that Jacques Kamiskwabinih (RIN #7189) is identified in a historic record or document dated on or before December 31, 1921, in such a way that it would be reasonable to conclude that he was considered to be an Algonquin or Nipissing, or a sibling of such a person.

Ralph Lance (Chairperson)
Shelley Holmberg
Jan Leroux
Deborah Moore
Tom Vincent

REASONS FOR DETERMINATION

REASONS DELIVERED BY:

**Lance (Chairperson), Holmberg, Leroux,
Moore and Vincent**

A. Introduction and Background

1. Tribunal's Mandate

1. The Algonquin Tribunal (the "**Tribunal**") was established by the Algonquin Negotiation Representatives (the "**ANRs**") pursuant to the Special Resolution of the Algonquins Negotiation Representatives on the Algonquins of Ontario Enrolment and Appeal Board (approved on April 20, 2021) (the "**Special Resolution**").
2. By way of Motion 20220422-01, the ANRs directed the Tribunal to conduct inquiries into fourteen historical persons who are presently on the Schedule of Algonquin Ancestors with a view to determining whether those historical persons are identified in a historic record or document dated on or before December 31, 1921, in such a way that it would be reasonable to conclude that the person was considered to be an Algonquin or Nipissing, or a sibling of such a person. A "sibling of such a person" means a person with a common Algonquin parent.
3. This criteria is taken from the definition of "Algonquin Ancestor" as that term is used in the Special Resolution of the Algonquin Negotiation Representatives on the Proposed Beneficiary Criteria (approved on January 22, 2020) (the "**Proposed Beneficiary Criteria**").¹
4. Included amongst the fourteen historic persons referred to the Tribunal for inquiry was Jacques Kamiskwabininch (RIN #7189).²
5. The ANRs referral of Jacques Kamiskwabininch (and other historical persons) to the Tribunal was made pursuant to section 76(e) of the Special Resolution, which provides that the

¹ Being a lineal descendant of an "Algonquin Ancestor" is one element of the Proposed Beneficiary Criteria. For the other elements, reference should be made to the Algonquin Negotiation Representatives on the Proposed Beneficiary Criteria (approved on January 22, 2020).

² As noted in the Enrolment Officer's Report, an "RIN#" is a randomly generated number assigned by the Legacy Genealogical database to each individual person entered in that database. The use of a RIN # is not indicative of whether a historical person is, or is not, an Algonquin Ancestor or is otherwise suspected of being Algonquin. It merely means that the historical person has been entered into the Legacy Genealogical database. RIN #s are used to assist in the identification and tracing of family trees and are particularly useful when a historic person may be identified by different names or spelling conventions or when several individuals have the same or similar name.

“Tribunal has jurisdiction to hear and determine ... such other matters as may be referred to the Tribunal by the ANRs or may be necessary to carry out its functions under this Special Resolution.”

6. In short, the Tribunal’s mandate is to determine whether Jacques Kamiskwabinih is properly considered an “Algonquin Ancestor” for the purposes of the Proposed Beneficiary Criteria (which is also sometimes known as the “Enrolment Criteria”).
7. If the Tribunal determines that the criteria is met, then Jacques Kamiskwabinih would remain on the Schedule of Algonquin Ancestors.
8. If the Tribunal determines that Jacques Kamiskwabinih does not meet the above noted criteria, then Jacques Kamiskwabinih would be removed from the Schedule of Algonquin Ancestors. As a consequence of that decision, the Enrolment Officer would review the Enrolment List to identify those individuals who no longer qualify for enrolment as a result of the Tribunal’s decision to remove Jacques Kamiskwabinih from the Schedule of Algonquin Ancestors.
9. Section 101 of the Special Resolution provides that the Tribunal’s determination, its reasons for determination and any accompanying order or recommendation are to be provided to those participating in the inquiry, the Enrolment Officer and the ANRs. Also, the Tribunal is to provide these documents to the AOO Consultation Office for public posting.

2. Procedural Background

10. Once the Tribunal was constituted and a Chair and Vice-Chair appointed, the Tribunal undertook various efforts to ensure that interested parties were informed: a) that the Tribunal was undertaking inquiries as directed by the ANRs; b) that interested parties could participate in the inquiries; and c) how interested parties could access information relevant to the inquiry and file evidence or submissions in support of their respective positions.
11. The Tribunal’s efforts to inform interested parties of the inquiries and how they may wish to participate in the Tribunal’s inquiry process include, but are not limited to, the measures described below.
12. First, the Tribunal sent a letter to all enrolled members of the AOO whose enrolment is based on them being a lineal descendant of one or more of the fourteen historical persons referred to

the Tribunal for inquiry. This letter informed recipients that their enrolment as proposed beneficiaries may be affected by one or more of the Tribunal's inquiries and that they are being afforded an opportunity to participate in the inquiries. This letter directed affected persons to the Tribunal's website, which is <https://www.tanakiwin.com/tribunal/>

13. Second, the Tribunal sent a letter to all other enrolled members of the AOO whose enrolment is not based on them being a lineal descendant of one or more of the fourteen historical persons referred to the Tribunal for inquiry. This letter informed recipients of the fact that the Tribunal had undertaken the inquiries and that they may participate. This letter also noted the removal of Algonquin Ancestors may result in persons who are presently enrolled as proposed beneficiaries no longer being eligible for enrolment. This letter also directed recipients to the Tribunal's website. This letter was sent to individuals who are enrolled through the AOO application process and to individuals who are enrolled on the basis of being members of the Algonquins of Pikwakanagan First Nation (the "AOPFN").
14. The Tribunal notes that members of the AOPFN are not directly affected by the Tribunal's inquiries as their enrolment is based on them being on the AOPFN's membership list. Nonetheless, the Tribunal wanted to ensure that members of the AOPFN were specifically informed of the Tribunal's inquiries and also understood that they are welcome to participate in the inquiries. The Tribunal recognizes that the proper and dutiful application of the Proposed Beneficiary Criteria is of great importance to everyone involved in the treaty process, including the AOPFN.
15. In addition to the above noted letters, the Tribunal also undertook its best efforts to send letters to individuals who are not presently enrolled but are known to be interested in the Tribunal's inquiries. These individuals included, but are not limited to, people who sought enrolment on the basis of one or more of the above noted historical individuals but were not enrolled for some other reason. Recipients were informed of the Tribunal's inquiries and their potential interest in one or more of the inquiries and were also advised to visit the Tribunal's website for additional information.
16. The Tribunal's website was (and continues to be) publicly available. Through the website, interested parties were able to access additional information regarding the Tribunal's process, scheduling information and relevant documents. Individuals were encouraged to sign-up for

updates from the Tribunal and were encouraged to state their interest in participating in one or more of the inquiries. As information became available and the Tribunal's website was updated (such as posting the Enrolment Officer's report or submissions from participants), the Tribunal would send an email to those who indicated their interest in receiving up-dates. Also, the Tribunal maintained a telephone number at which interested parties may speak with the Tribunal's legal support team to ask questions regarding the Tribunal's process and their Algonquin ancestry.

17. Specifically with respect to the Tribunal's inquiry into Jacques Kamiskwabinih, the Tribunal notes that the Enrolment Officer's Report Regarding Ancestor Jacques Kamiskwabinih dit Pichikiwikijik was filed with the Tribunal and made available on its website. No other documents were filed, whether in support of or opposed to the continued inclusion of Jacques Kamiskwabinih on the Schedule of Algonquin Ancestors.
18. The schedule for filing materials, the hearing date and the Enrolment Officer's report noted above were all made available on the Tribunal's website in a timely manner and were also the subject of the Tribunal's update emails that were sent from time to time.
19. The Tribunal held a hearing on December 14, 2022 at the Best Western Hotel in Pembroke. The hearing was open to interested parties. The Enrolment Officer gave a brief oral presentation supplemented with PowerPoint visuals. She answered questions from the panel. No other presentations were made despite interested parties having been invited to speak in favour or against the inclusion of Jacques Kamiskwabinih. The panel reserved its decision at the hearing until the release of these written reasons.

B. The Tribunal's Determination

20. Upon consideration of the evidence and having reference to the definition of "Algonquin Ancestor", the Tribunal has unanimously determined that Jacques Kamiskwabinih is properly considered an "Algonquin Ancestor" and should remain on the Schedule of Algonquin Ancestors.
21. The Tribunal's reasons for its determination are set out below.

C. Tribunal's Reasons

1. Introduction

22. In coming to its determination, the Tribunal had reference to the comprehensive report provided by the Enrolment Officer (including the documents attached thereto) and the definition of "Algonquin Ancestor".

2. Review of Historic Records

23. The Enrolment Officer's report is based on historical documents in her possession. No issues were raised with the respect to the authenticity of the documents and their reliability. The records and documents appended to the Enrolment Officer's report are well-known to researchers and originate from well-known and reputable sources.
24. The Tribunal notes that Jacques Kamiskwabini^{ch} was recorded using various names in the available historical documentation. The Enrolment Officer has confirmed that, despite the variations in spelling and names, the documents pertain to Jacques Kamiskwabini^{ch}. For ease of reference, the Tribunal will simply refer to the historical person that is subject to this inquiry by his most recognized name, being "Jacques Kamiskwabini^{ch}".
25. In her report, the Enrolment Officer states that Jacques Kamiskwabini^{ch} was originally included on the Schedule of Algonquin Ancestors because:
- a) He was listed on the 1842 census for the Lac des Deux Montagnes (Oka) Mission as a Nipissing head of household;
 - b) He was listed on the 1850 Census of Lower Canada "Return of the Nipissingue Tribe at the Lake of Two Mountains" as a head of household; and
 - c) He was listed as a signatory to the 1863 Petition from the "Indians of the village of Two Mountains hunting on the head waters of the Madawaska and other rivers of central Canada".
26. The 1863 Petition from the "Indians of the village of Two Mountains hunting on the head waters of the Madawaska and other rivers of central Canada" was a precursor to the present land claim as it was an effort by Algonquins to obtain land on the upper Madawaska for "the whole Algonquin tribe". Jacques Kamiskwabini^{ch} appears as "Chako Miskwapimich" on the

petition, which is another name variation by which Jacques Kamiskwabinih was known. This has been confirmed by the Enrolment Officer.

27. Each of the above noted documents are appended to the Enrolment Officer's report and reviewed by the Tribunal as part of its inquiry.
28. In addition to the above and on the basis of the available historical documentation (which documentation is appended to the Enrolment Officer's report and has been analyzed by the Tribunal members), the Enrolment Officer makes the following observations:
 - a) The document recording Jacques Kamiskwabinih's marriage to Cecile Otichkwetchiwanokwe (RIN #7190) on August 23, 1802 identifies Jacques Kamiskwabinih's parents as being Nipissing;
 - b) The document recording the marriage of Jacques Kamiskwabinih's son (being François Miskwabimij (RIN #5468)) in 1837 identifies Jacques Kamiskwabinih's son as being Nipissing;
 - c) Jacques Kamiskwabinih's brothers (being François Odjik (RIN #6927) and Ignace Chanwanabe (aka Nionerassa) (RIN #7034)) are listed on the Schedule of Algonquin Ancestors; and
 - d) Jacques Kamiskwabinih and his spouse Cecile Otichkwetchiwanokwe (RIN #7190) are identified as being either Algonquin or Nipissing on the baptismal records of each and every one of their eight known children.

3. Documents confirm that Jacques Kamiskwabinih is an "Algonquin Ancestor"

29. On the basis of this historical documentation noted above, the Tribunal is of the view that Jacques Kamiskwabinih is properly considered an Algonquin Ancestor.
30. Broken down into its constituent elements, the definition of "Algonquin Ancestor" is as follows:
 - a) a person
 - b) the person must be one who was born on or before July 15, 1897 and
 - c) the person must be identified in a historic record or document
 - d) this historic record or document must be one that is dated on or before December 31, 1921,

- e) the identification of the person must be in such a way that it would be reasonable for the Tribunal to conclude
- f) that the person identified in the historic record was considered to be an Algonquin or Nipissing,
- g) or a sibling of such a person. A “sibling of such a person” means a person with a common Algonquin parent.

- 31. Jacques Kamiskwabininch is an identifiable person who was born on or before July 15, 1897 and is identified in a number of historical records (as noted above) that are dated on or before December 31, 1921.
- 32. Furthermore, the historical records are such that it is reasonable to conclude that Jacques Kamiskwabininch was considered to be Algonquin or Nipissing by his contemporaries.
- 33. Indeed, it would be unreasonable to infer from the historical documents available to the Tribunal that Jacques Kamiskwabininch was anything other than Algonquin or Nipissing.

D. Confirmation of Determination

- 34. For the reasons stated above and on the basis of the record before the Tribunal, the Tribunal unanimously determines that Jacques Kamiskwabininch is properly considered an “Algonquin Ancestor” and should remain on the Schedule of Algonquin Ancestors.

TO: Algonquin Negotiation Representatives

AND TO: Enrolment Officer

AND TO: Algonquins of Ontario Consultation Office (for public posting)