

ALGONQUIN TRIBUNAL

RE: Inquiry conducted by the Algonquin Tribunal pursuant to Article 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 Thomas Lagarde dit St. Jean (RIN #11565)

DETERMINATION AND REASONS FOR DETERMINATION REGARDING THE ALGONQUIN TRIBUNAL'S INQUIRY INTO THOMAS LAGARDE DIT ST. JEAN (RIN #11565)

Hearing Date: June 19, 2023, Pembroke, Ontario, and July 6, 2023, via video conference

Date of Determination and Reasons: July 24, 2023

Hearing Panel: Deborah Moore (Chairperson), Connie Deroneth, Jan Leroux, Robin McLaren, and Robin Tinney

Legal counsel: Ben Mills (Advisory Member)
Angel Li

Persons filing written submissions: Joan Holmes (Enrolment Officer)
D. Scott
Lynn Clouthier
Veldon Coburn
Connie Mielke
Denise Chaput
Chief Wendy Jocko
Chief Greg Sarazin
L Bertrand

Persons making
presentations at
hearing:

Joan Holmes (Enrolment Officer)

Connie Mielke

Denise Chaput

Jane Lagassie

Reid Godin

Chief Clifford Bastien

Pam Vanstradden

Jamie Turcotte

Darrel Leroux on behalf of AOPFN Chief and Council

Angelina Commanda

Hazel Turcotte

**ALGONQUIN TRIBUNAL’S DETERMINATION REGARDING THE INQUIRY INTO
THOMAS LAGARDE DIT ST. JEAN (RIN #11565)**

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, conducted an inquiry to determine whether Thomas Lagarde dit St. Jean (RIN #11565) 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 has unanimously determined that Thomas Lagarde dit St. Jean (RIN #11565) is not 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.

Pursuant to Article 100 of the Special Resolution of the Algonquin Negotiation Representatives on the Algonquins of Ontario Enrolment and Appeal Board (approved on April 20, 2021), the Tribunal directs that Thomas Lagarde dit St. Jean (RIN #11565) be removed from the Schedule of Algonquin Ancestors.

Deborah Moore (Chairperson)
Connie Deroneth
Jan Leroux
Robin McLaren
Robin Tinney

REASONS FOR DETERMINATION

REASONS DELIVERED BY:

**Moore (Chairperson), Deroneth, Leroux,
McLaren, and Tinney**

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 Algonquin 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. These criteria are 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 Thomas Lagarde dit St. Jean (RIN #11565).² The Tribunal notes that Thomas Lagarde dit St. Jean (RIN #11565) is the husband of Sophie Emilie Jamme dite Carriere (RIN #11566). Sophie Emilie

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.

Jamme dite Carriere (RIN #11566) is the subject of another inquiry being conducted by the Tribunal.

5. The ANRs referral of Thomas Lagarde dit St. Jean (RIN #11565) (and other historical persons) to the Tribunal was made pursuant to Article 76(e) of the Special Resolution, which provides that the “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 Thomas Lagarde dit St. Jean (RIN #11565) is properly considered an “Algonquin Ancestor” for the purposes of the Proposed Beneficiary Criteria (which is also known as the “Enrolment Criteria”).
7. If the Tribunal determines that the criteria are met, then Thomas Lagarde dit St. Jean (RIN #11565) would remain on the Schedule of Algonquin Ancestors.
8. If the Tribunal determines that Thomas Lagarde dit St. Jean (RIN #11565) does not meet the above noted criteria, then Thomas Lagarde dit St. Jean (RIN #11565) 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 Thomas Lagarde dit St. Jean (RIN #11565) from the Schedule of Algonquin Ancestors and remove those individuals from the Enrolment List. This would be done pursuant to Article 103 of the Special Resolution.
9. Article 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.
10. The Special Resolution is an effort by the ANRs (and those whom they represent) to engage in self-governance and self-determination. The Special Resolution establishes a fair process by which Algonquins are making decisions regarding enrolment and membership. This is an exercise of Algonquin Indigenous rights as they exist and as they are recognized under section 35 of the *Constitution Act, 1982*. This endeavour is wholly consistent with the rights described in *United Nations Declaration on the Rights of Indigenous Peoples Act* (S.C. 2021, c. 14).

2. Procedural Background

11. 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.
12. The Tribunal's efforts to inform interested parties of the inquiries and how they could participate in the Tribunal's inquiry process include, but are not limited to, the measures described below.
13. 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 have an opportunity to participate in the inquiries. This letter directed affected persons to the Tribunal's website, which is <https://www.tanakiwin.com/tribunal/>. This letter was sent during the second week of August, 2022.
14. 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 was also sent during the second week of August, 2022. This letter informed recipients of the fact that the Tribunal had undertaken the inquiries and that they may participate. This letter also noted that 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").
15. The Tribunal notes that members of the AOPFN are not directly affected by the Tribunal's inquiries because 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 were 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 members of the AOPFN.

16. 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.
17. 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 reports from the Enrolment Officer or submissions from participants), the Tribunal would send an email to those who indicated their interest in receiving updates. Also, the Tribunal maintained a telephone number so that interested parties could speak with the Tribunal's legal support team to ask questions regarding the Tribunal's process and their Algonquin ancestry. The Tribunal understands that participants in this inquiry availed themselves of these resources.

B. Written Submissions Received

18. Specifically with respect to the Tribunal's inquiry into Thomas Lagarde dit St. Jean (RIN #11565), the following documents were filed with the Tribunal and made available on its website:
 - Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean³

³ The Tribunal followed an approach whereby the first substantive document produced as part of its inquiry process was an initial report prepared by the Enrolment Officer. The Tribunal took this approach as the Enrolment Officer's

- Document 2 – Initial Submission by D. Scott
- Document 3 – Initial Submissions made by L. Clouthier on behalf of Lagarde_Carriere line
- Document 4 – Submission by V. Coburn regarding Thomas Lagarde dit St. Jean
- Document 5.1 – Initial Submission by D. Chaput and C. Mielke
- Document 5.2 – Initial Submission by D. Chaput and C. Mielke_Redacted
- Document 5.3 – Initial Submission by D. Chaput and C. Mielke
- Document 5.4 – Initial Submission by D. Chaput and C. Mielke
- Document 5.5 – Initial Submission by D. Chaput and C. Mielke
- Document 5.6 – Initial Submission by D. Chaput and C. Mielke
- Document 5.7 – Initial Submission by D. Chaput and C. Mielke
- Document 5.8 – Initial Submission by D. Chaput and C. Mielke
- Document 5.9 – Initial Submission by D. Chaput and C. Mielke
- Document 6 – Submission by Chief W. Jocko on behalf of her community
- Document 7 – Responding Submission by Chief G. Sarazin on behalf of his community (RIN#11565)
- Document 8 – Enrolment Officer’s Response to Initial Submission 4 re #11565
- Document 9 – Enrolment Officer’s Response to Initial Submissions 2, 3 & 5 re #11565
- Document 10 – Enrolment Officer’s Reply to submissions 6 & 7 re 11565
- Document 11 – Reply Submission by D. Chaput and C. Mielke
- Document 12 – Enrolment Officer’s Reply to submission 11 re #11565
- Document 13 – Submission by Council of AOPFN (Lagarde)

initial report would provide a baseline of information from which participants could make further submissions. This was done to increase transparency and fairness and with a view to establishing an orderly process to identify and debate the issues that might arise from the historical documents. The qualifications of the Enrolment Officer and her team are described in *Document 16 – Information on JHA Enrolment Team*.

- Document 14 – Submission by L. Bertrand (Lagarde and Carriere)
 - Document 15 – Enrolment Officer’s Reply to Doc 14 Submission by L. Bertrand re #11565
 - Document 16 – Information on JHA Enrolment Team
19. The Tribunal members attentively reviewed Documents 1 to 16 in preparation for the hearing. The Tribunal re-reviewed those materials as part of the deliberations that followed the hearing.
 20. The Tribunal recognizes that this is an important matter and has considered all the materials that have been filed.
 21. The schedule for filing materials and the materials 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.

C. Hearing

22. The Tribunal held a hearing on June 19, 2023, at the Best Western Hotel in Pembroke. Interested parties could also attend the hearing via electronic video platform (i.e., Zoom). The hearing date was posted on the Tribunal’s website and was the subject of an update email.
23. The hearing was open to all interested parties.
24. Approximately 30 people attended in person and additional people attended via zoom.
25. The hearing opened with a prayer. The Chairperson then provided an overview of the order of proceedings and the panel members introduced themselves.⁴
26. After providing a brief opportunity to ask questions regarding procedural issues, the Chairperson called upon the Enrolment Officer to make her presentation.
27. The Enrolment Officer gave an oral presentation supplemented with PowerPoint visuals. The Enrolment Officer answered questions from the panel and from those in attendance and spoke in response to submissions and comments made by others.
28. Connie Mielke, Denise Chaput and Jane Lagassie made extensive submissions in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors.

⁴ The names of the Tribunal members have been posted on the Tribunal’s website for some time and the members presiding over this inquiry were impanelled in a manner required by the Special Resolution and in a way so as to reduce the potential for conflicts of interest. No objections were made regarding the composition of the panel.

Their submissions highlighted key points in their written materials. Amongst other points, they spoke of the historical context in which Thomas Lagarde dit St. Jean (RIN #11565) lived, the genealogical profile of Thomas Lagarde dit St. Jean (RIN #11565) (including his ancestors and descendants), the connection that those making submissions and their families have to the area (including to Black Bay), how descendants of Thomas Lagarde dit St. Jean (RIN #11565) have features suggesting Indigenous ancestry, the Brunet Letter being a historical document that the Tribunal should take into consideration, the cultural and harvesting knowledge and lifestyle of their families, the positive work that they have engaged in with and on behalf of Algonquins, the impact that a negative decision will have on their lives, and Justice Chadwick's decision. Connie Mielke also questioned the motives and good faith of those who were opposed to the continued listing Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors. The submissions made by Connie Mielke and Denise Chaput were supported by a PowerPoint presentation. Jane Legassie referred to various materials during her presentation.

29. Other attendees also spoke in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors. These presentations were brief. For example, Reid Godin spoke of his relationships with others in the Algonquin community and that relationships need to take priority over paper or apparent economic gain. Chief Bastien spoke about the need to verify the Brunet Letter and that the Tribunal should engage a handwriting expert. Chief Bastien stated that while everyone's heart may be Algonquin, we need to go by what the documentation says. Pam Vanstradden identified herself as an elder of the Algonquins of Greater Golden Lake First Nation and spoke about the legitimacy of the Brunet Letter. Jamie Turcotte spoke about the connection that his ancestors and his family have to the harvest.
30. Dr. Darryl Leroux attended the hearing as a representative of Chief and Council of the AOPFN. Dr. Leroux left the hearing late in the afternoon before he could speak. The circumstances in which Dr. Leroux left the hearing are discussed in the addendum below. Due to the fact that Dr. Leroux left the hearing, and to ensure transparency and increase community understanding of the Tribunal's process and the submissions before the Tribunal, the Advisory Member briefly outlined the written submissions Dr. Leroux made on behalf of Chief and Council of the AOPFN. The Advisory Member also stated that the Tribunal members have reviewed all the written submissions and the Tribunal's consideration of those submissions is not dependent

on the authors of those submissions also speaking at the hearing. The Advisory Member also stated that commentary made outside of the Tribunal process (such as in the media or on social media) will not be considered as part of the Tribunal's decision making process. The Tribunal will only consider the materials on the record before it.

31. Connie Mielke made brief reply submissions in which she recapped the main points of her presentation and also indicated that the Tribunal should engage an expert to review the Brunet Letter.
32. The hearing concluded with the Tribunal indicating that it was reserving its decision so as to deliberate on this important matter and to review the written submissions again in light of the oral submissions presented at the hearing. The hearing ended with a closing prayer.
33. A subsequent hearing was held on July 6, 2023, via electronic video conference (i.e., Zoom). The purpose of this subsequent hearing was to provide an opportunity for Dr. Leroux to make a presentation in support of his written submissions on behalf of Chief and Council of the AOPFN. It was also an opportunity to hear responding and reply submissions in the inquiry regarding Sophie Emelie Jamme dite Carriere (RIN # 11566). The circumstances that led to this additional hearing date are described in the addendum below.
34. Interested parties were informed of this additional hearing via email and were provided the necessary link to attend the video conference.
35. At the July 6th hearing, Dr. Leroux made a presentation opposing the continued listing of Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors. Dr. Leroux submitted, amongst other things, that the genealogy for Thomas Lagarde dit St. Jean (RIN #11565) traces his roots almost entirely to France and that his genealogy does not indicate any Indigenous or Algonquin ancestry. Dr. Leroux also questioned the legitimacy of the Brunet Letter and was critical of the effort to demonstrate Indigenous ancestry based on people's physical features. Dr. Leroux submitted that living in proximity to Algonquins does not prove someone is Algonquin. Finally, Dr. Leroux submitted that Justice Chadwick's decision was not a decision made by a court and that the Tribunal does not need to follow it.
36. Connie Mielke made submissions in reply. Amongst other things, Ms. Mielke submitted that:
 - a) ancestors connected to Thomas Lagarde and Sophie Carriere were living near Algonquins

and participated in Algonquin ceremonies; b) the photo of her ancestors is authentic because it was given to her by an aunt who had no motivation to say that these were Algonquin when they were not; and c) the Tribunal needs to give due regard to oral history. Ms. Mielke also questioned the fairness of the hearing as it gave additional time for Dr. Leroux to prepare his responding submissions.

37. Denise Chaput also made submissions in reply. Amongst other things, Ms. Chaput: a) referenced Iroquois attacks that resulted in her family members being captured; and b) requested that the Brunet Letter be examined again and suggested that the letter may have been written on animal hide as it was an informal letter.
38. Jane Lagassie made submissions in reply. Ms. Lagassie quoted from a book titled “Archaeology from North Bay to Mattawa” that indicated stone structures formed a variety of patterns along the Ottawa River and their antiquity is marked by lichen growth.
39. Hazel Turcotte made submissions in reply. Ms. Turcotte emphasized that the descendants of Thomas Lagarde dit St. Jean (RIN #11565) and Sophie Emelie Jamme dite Carriere (RIN # 11566) are defending their heritage and are not aiming for monetary compensation. Ms. Turcotte submitted that they were raised in an Algonquin lifestyle in “the bush”. Ms. Turcotte explained their ancestors lack a paper trail because they hid their identity and that Algonquin women often had to take on French names.
40. The hearing concluded with the Tribunal indicating that it was reserving its decision to deliberate on this important matter. The hearing ended with a closing prayer.

D. The Tribunal’s Determination

41. Upon consideration of the evidence and the submissions made by participants, and having reference to the definition of “Algonquin Ancestor”, the Tribunal has unanimously determined on the basis of the record before it that Thomas Lagarde dit St. Jean (RIN #11565) is not 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; nor is he a sibling of such a person.
42. In coming to its determination, the Tribunal had reference to all of the information before it and also considered the oral submissions that were made at the hearings.

43. The Tribunal's reasons for its determination are set out below.

E. Definition of Algonquin Ancestor

44. The starting point of the Tribunal's analysis is the definition of "Algonquin Ancestor".

45. Broken down into its components, an "Algonquin Ancestor" is:

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.

46. Elements (a), (b) and (c) confirm that the "Algonquin Ancestor" must be an identifiable historical person. While this may seem somewhat trite, these elements are very important as they confirm that a determination of who is or who is not an "Algonquin Ancestor" requires the Tribunal to focus on a specific historical person who is documented as being an identifiable person who existed in a time and place. This requirement means that the claim to Algonquin ancestry for the purposes of enrolment must be grounded or based on an actual historical person.

47. In this inquiry, the Tribunal was focused on Thomas Lagarde dit St. Jean (RIN #11565). As was the case with other inquiries, the Tribunal also considered information and historical documents pertaining to historical persons who are connected with the subject ancestor. In this inquiry, the Tribunal considered historical records and other information that provided a genealogical profile (or family tree) for Thomas Lagarde dit St. Jean (RIN #11565). The Tribunal also considered how information pertaining more directly to Thomas Lagarde dit St.

Jean (RIN #11565)'s descendants may inform the Tribunal's analysis of whether Thomas Lagarde dit St. Jean (RIN #11565) is properly considered an Algonquin Ancestor.

48. Element (d) pertains to the historic record itself as opposed to the person under consideration and that the historic record must be one that is dated on or before December 31, 1921. This confirms that the records on which the Tribunal is to make a determination must be dated on or before December 31, 1921. This does not mean that the Tribunal is prohibited from considering documents or information that postdate December 31, 1921. However, it suggests that such post December 31, 1921 information should be used to inform the Tribunal's interpretation and understanding of historical documents as opposed to providing a standalone basis for its analysis.
49. Element (e) describes the standard that Tribunal must apply when making its determination. In this regard, the Tribunal must be satisfied that it is "reasonable to conclude". As is readily apparent from the words used, this standard is obviously higher than "possible to conclude" or "may conclude" but is lower than being convinced "beyond all doubt". The "reasonable to conclude" standard requires the Tribunal to conduct a thorough analysis of the evidence and to base its determination on the evidence. The Tribunal confirms that it has reviewed all of the evidence with the standard "reasonable to conclude" in mind.
50. Element (f) is the crux of the matter and requires the Tribunal to assess what the historical document or documents are telling us about the historical person at issue and how that person may have been viewed by others.
51. As with any other element of the definition, the Tribunal assumes that this element of the definition was created in a thoughtful and deliberate manner and was subject to considerable debate and discussion. On that basis, the Tribunal has to be mindful to the specific words used (or not used) in the definition.
52. For example, the use of the phrase "considered to be" indicates that the person identified in the historical document must be "considered" as being Algonquin or Nipissing by someone else. It is not enough for the person to self-identify as Algonquin or Nipissing. Rather, the identification of the historical person as Algonquin or Nipissing must be something that is recognized by others.

53. Also, the Tribunal notes that the past tense is used. This indicates that those who “considered” whether the historical person is Algonquin or Nipissing are the contemporaries of the historical person at issue.
54. The application of the phrase “considered to be an Algonquin or Nipissing” is a fact driven exercise that requires an attentive examination of the historical documents and the historical context in which they were created. This is a highly contextual exercise that requires the Tribunal to analyze the evidence on the record before it as it relates to each matter or inquiry. The Tribunal’s task is always to determine whether it is reasonable to conclude that the historical person at issue “was considered to be an Algonquin or Nipissing” on the basis of the historical records.

F. Review of Historical Records Pertaining to Thomas Lagarde dit St. Jean (RIN #11565)

1. Thomas Lagarde dit St. Jean (RIN #11565), his parents and siblings

55. The earliest known document recording information about Thomas Lagarde dit St. Jean (RIN #11565) is his baptismal record. This document indicates that Thomas Lagarde dit St. Jean (RIN #11565) was baptised at St. Eustache’s Church in the County of Deux Montagne on March 21, 1801. His parents are identified as Paul Lagarde (RIN #14681) and Marguerite Poirier (RIN #14682), who are both noted as being of “de cette paroisse” (i.e., “of this parish”).⁵
56. This document does not indicate that the family is Algonquin or Indigenous.
57. The Enrolment Officer has confirmed, and the Tribunal accepts that, the “County of Deux Montagnes” was a large county bordering the north shore of the Ottawa River and Lac des Deux Montagne. This county included the parishes of St. Benoit, St. Scholastique, St. Colomban, St. Augustin, St. Eustache, and the mission of the Lake of Two Mountains (i.e., Oka) as well as parts of St. Jerome and the Township of Morin. The parish of St. Eustache, while close by, is separate and distinct from the mission of the Lake of Two Mountains.⁶
58. Thomas Lagarde dit St. Jean (RIN #11565)’s parents were married on February 4, 1793, at St. Eustache Church. The document recording this marriage identifies Paul Lagarde (RIN

⁵ ALG 40273

⁶ See ALG 40510 which is a map taken from “Google Maps” on which the Enrolment Officer identifies the locations of St. Eustache and Oka.

#14681)'s parents as being Antoine Lagarde (RIN #31487) and Elizabeth Mondoux (RIN #31488). Marguerite Poirier (RIN #14682)'s parents are identified as Thomose Poirier dit Delonge (RIN #31523) and Marie Josette Clement (RIN #31524). This document does not indicate that those involved in the wedding were Indigenous or Algonquin.⁷

59. Thomas Lagarde dit St. Jean (RIN #11565) was one of 15 children born to Paul Lagarde (RIN #14681) and Marguerite Poirier (RIN #14682). The Enrolment Officer indicates that all known records documenting the births, baptisms, marriages, and deaths of Thomas Lagarde dit St. Jean (RIN #11565)'s siblings occurred at the parish church of St. Eustache.⁸
60. Given the relative proximity to the mission at the Lake of Two Mountains (i.e., Oka), the Enrolment considered whether Thomas Lagarde dit St. Jean (RIN #11565) and his family or Paul Lagarde (RIN #14681) and his family were enumerated at the Algonquin or Nipissing Villages on either the 1825 census or the 1842 census for the mission at Lake of Two Mountains. They were not.⁹
61. Thomas Lagarde dit St. Jean (RIN #11565) was enumerated on the 1842 census for St. Eustache as part of a nine person household. There were no ethnic or national identifiers on this census.¹⁰
62. A notary document dated March 4, 1843 indicates that Thomas Lagarde dit St. Jean (RIN #11565) was imprisoned on February 11, 1843, for the non-payment of debts. Thomas Lagarde dit St. Jean (RIN #11565) was released when the debt was paid.¹¹

⁷ ALG 40282

⁸ ALG 40294 – Note that this is a printout summary from the *Programme de recherche en démographie historique*. The PRDH is a university research programme supported by the Social Science and Humanities Research Council of Canada, the Quebec government's Department of Education, and the Université de Montréal. Its purpose is to collect and catalogue parish and civil records beginning from the French colonization of Quebec in the seventeenth century. The Tribunal views summaries from the PRDH as being reliable. Also, much of the information in ALG 40294 has been confirmed by the Enrolment Officer accessing source documents (e.g., the parish records), which are identified and attached to *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean*

⁹ ALG 07287 and ALG 40373 – The Tribunal notes that Thomas Poirier dit Deloge (RIN #31523) (who is the maternal grandfather of Thomas Lagarde dit St. Jean (RIN #11565) was born at Oka on December 20, 1744. However, he is not identified as Indigenous or Algonquin and clearly has a French, as opposed to Indigenous, name and traces his roots back to France. The Enrolment Officer indicated that the mission at Oka was being used by French as well as Indigenous people at this time.

¹⁰ ALG 40374

¹¹ ALG 40377 and ALG 40382

63. A secondary source from the Pontiac Archive, the authorship of which is unknown, indicates that Thomas Lagarde dit St. Jean (RIN #11565) and his family moved to Litchfield Township in Pontiac County in 1844 or 1845.¹²
64. Thomas Lagarde dit St. Jean (RIN #11565)'s family was recorded on the 1851 census as living in the area of Litchfield, Pontiac, near Ile de Grand Calumet, Quebec. This same document indicates that Thomas Lagarde dit St. Jean (RIN #11565) died within the previous year.¹³
65. Thomas Lagarde dit St. Jean (RIN #11565) is variously described as: a) voyageur¹⁴; b) day-labourer¹⁵; and c) artisan.¹⁶
66. None of the documents identified by the Enrolment Officer that pertain to Thomas Lagarde dit St. Jean (RIN #11565), or his immediate family, indicate that he or members of his family witnessed life events of individuals who are known to be Algonquin or vice-versa.
67. Also, with the exception of the Brunet Letter (which is discussed below), no document identifies Thomas Lagarde dit St. Jean (RIN #11565) or his immediate family as being either Algonquin or Indigenous.

2. Genealogical Profile for Thomas Lagarde dit St. Jean (RIN #11565)

68. The Enrolment Officer prepared a genealogical profile for Thomas Lagarde dit St. Jean (RIN #11565) tracing his ancestors through his paternal and maternal lines. The genealogy for Thomas Lagarde dit St. Jean (RIN #11565)'s paternal and maternal lines are set out in *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean* and the historical documents attached thereto.¹⁷
69. This ancestral profile was based on information from *Programme de recherche en démographie historique* in conjunction with marriage records.

¹² ALG 40431

¹³ ALG 40379

¹⁴ ALG 40281, ALG 403777, ALG 40503 and ALG 40360 (which is the Brunet Letter)

¹⁵ ALG 40276, ALG 40277, ALG 40278, ALG 40279, ALG 40280 and ALG 40379

¹⁶ ALG 40372

¹⁷ See page 24 of *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean* for the Enrolment Officer's review of Thomas Lagarde dit St. Jean (RIN #11565)'s paternal line and page 25 for the Enrolment Officer's review of his maternal line.

70. With the exception of one person, the Enrolment Officer traced Thomas Lagarde dit St. Jean (RIN #11565)'s ancestors back to France. The only exception was Marguerite Manchon (RIN #31512), who is Thomas Lagarde dit St. Jean (RIN #11565)'s great great great grandmother on his paternal line. However, neither the Enrolment Officer nor the those in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors have identified a document indicating that Marguerite Manchon (RIN #31512) is Algonquin or Indigenous.
71. While those in support maintain that Thomas Lagarde dit St. Jean (RIN #11565) is of Algonquin ancestry they did not provide any material information that would cause the Tribunal to question the genealogical profile provided by the Enrolment Officer in *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean*.

3. Thomas Lagarde dit St. Jean (RIN #11565)'s known children

72. The Enrolment Officer reviewed documents relating to Thomas Lagarde dit St. Jean (RIN #11565)'s known children. This was done in an effort to determine whether any of those documents might identify Thomas Lagarde dit St. Jean (RIN #11565)'s children as Algonquin or Indigenous.
73. This included a review of available birth, baptismal, marriage and death records. Of the documents located, none of them identify Thomas Lagarde dit St. Jean (RIN #11565)'s children as Algonquin or Indigenous. The Enrolment Officer's analysis in this regard is set out in *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean*.¹⁸ Those in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) did not identify any documents recording life events of Thomas Lagarde dit St. Jean (RIN #11565)'s children that also identified them as being Algonquin or Indigenous. Also, those in support did not provide any basis on which the Tribunal could reasonably question the results of the Enrolment Officer's research.
74. The Enrolment Officer also conducted a review of available census records for Thomas Lagarde dit St. Jean (RIN #11565)'s children. The results of her research and associated review are set out in *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas*

¹⁸ See page 11 and 12 and the historical and other documents referenced on those pages.

Lagarde dit St. Jean.¹⁹ The Tribunal recognizes that census records may contain mistakes. However, the Tribunal also recognizes that census records correctly record people as Indigenous and, sometimes, correctly record people as Algonquin. The census records do not record Thomas Lagarde dit St. Jean (RIN #11565)'s children as being Algonquin or Indigenous. Indeed, they are predominantly recorded as French or Canada/French.

75. Again, those in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the schedule of Algonquin Ancestors have not provided a document or other information that would cause the Tribunal to question the Enrolment Officer's research in this regard.

4. Brunet Letter

76. Included in *Document 1 – Enrolment Officer's Report Regarding Thomas Lagarde dit St. Jean* is a photocopy of a letter that purports to be from a person named "Brunet" to a person named "Bourget". The letter is in French.

77. The photocopy of the letter is difficult to read and has been translated by the Enrolment Officer as follows:

[Sgnr] Bourget

On the twenty-third of June, eighteen hundred and forty five, you [placed] me a secular priest to go and evangelize the distant regions of the North West of the [l'eminence?] diocese of Saint Sulpice. I happened upon a little mission of Île aux Allumettes in the fall the twenty-second September. With two young Indians["Indiens"] [originaire?] of the Lake of Two Mountains, I [illegible] in [secret?] with a voyageur Thomas Lagarde dit St. Jean, a Masonic member and also descended from Algonquians ["q'un membre maçons et aussi descendre d'Algonquians"]. He is a fugitive and is condemned to death by the English authority of Montreal. [Illegible] who returned to Montreal with voyageur Urget St. Jean of St. Francois de Templeton, and then to return to [Nipeigon?]. We took advantage of certain matters which I could talk to you about thoroughly in a little while.

Brunet

78. Those in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors transcribe the letter as follows:²⁰

(Sgnr) Bourget

Le vingt trois juin, mil huit cent quarante cinq vous (Choise ou charge) (moi) pretre seculiere (Sic) d'aller evangeliser les regions lointaines du Nord-Ouest de l'.....diocese de Saint Sulpice. J'arrais croissant a la petit mission de L'isle aux Allumettes dans l'automne le vingt deux September. Avec deux jeunes Indiens (.....) du Lac de Deux Montagne, je(repose) (au ou en secrete) avec un voyageur

¹⁹ See page 13 of *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean* and the historical records attached thereto.

²⁰ See page 2 of *Document 5.6 – Initial Submission by D. Chaput and C. Mielke*

Thomas Lagarde dit St Jean (g) un member Macons et aussi descender d'Algonquins. Il est un fugitive, et est condamne a mort par le pouvoir des (Anglis) de Montreal. Je (Suis) renter a Montreal avec voyageur Urguet St. Jean de Francois de Templeton, et alors retourner dans les Nepigon. Nous avons profite (sic) certaine choses don't je pourrais vous entretenir a fond dans peu.

Brunet

79. Those in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors provide the following English translation:²¹

(His Eminence) Bourget

The twenty third of June, 1845, you (directed or chose) (me) a community priest to evangelize in the distant regions of the North West from the ...diocese of Saint Sulpice. I came across the little mission at L'isle aux Allumette in the fall the twenty second of September. With two young Indians (.....) from Lake of Two Mountains, I (stayed) (secretly) with a voyageur Thomas Lagarde dit St Jean, (who is) a member of the Masons and also descended from Algonquins. He is a fugitive and has been condemned to death under the authority of the English of Montreal. I will return to Montreal with the voyageur Urquet St. Jean of St Francois of Templeton, and later return among the Nipigon. We have the benefit of certain matters which I can discuss with you in depth soon.

Brunet

80. Those in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors state that: a) the letter was drafted by Father Alexander Auguste Brunet, who was a missionary priest of Saint Sulpice; and b) the letter was sent to Bishop Ignace Bourget who was the Bishop of the Montreal dioceses at the time.
81. Those in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors did not provide an original copy of the Brunet Letter or identify the archive or other place where one might find the original version of the Brunet Letter.
82. The only information that the Tribunal has regarding its origins is that a person supplied the letter as part of the proceeding before Justice Chadwick. That person received a copy of the letter from an individual who had a private collection of information pertaining to the fur trade.
83. The letter is not dated but, looking at its contents, was apparently drafted sometime after September 22, 1845.

²¹ See page 2 of *Document 5.6 – Initial Submission by D. Chaput and C. Mielke*

84. The Enrolment Officer has provided a comprehensive review of the substantive contents of the letter. This review is set out in *Document 1 – Enrolment Officer’s Report Regarding Thomas Lagarde dit St. Jean*.²²
85. In an effort to locate the original copy of the Brunet Letter, the Enrolment Officer made written inquiries to the Archives of Saint-Sulpice, the Archives of the Missionnaires Oblats de Marie Immaculée (Archives Deschâtelets-NDC), and the Archives for the Diocese of Montreal asking if they had this letter in their possession. All three archives replied they could not find the letter.²³
86. The Tribunal directed the Advisory Member’s office to make additional inquiries with archives in an effort to locate the original copy of the letter. Further to those instructions, inquiries were made to: a) L’Univers Culturel de Saint-Sulpice (translated as “The Archives of Saint Sulpice”); b) the Archives Deschâtelets-NDC; c) Archives Diocèse de Montréal, also known as "Archidiocèse catholique romain de Montréal”; and d) Bibliothèque et Archives nationales du Québec. None of these archives had a copy of the letter or any related correspondence.

G. Submissions by Those in Support

87. In their written submissions, those in support of Thomas Lagarde dit St. Jean (RIN #11565) described:
- a) their long standing family connections to areas around Pembroke, Petawawa, and Mattawa (in particular to the Black Bay area);
 - b) their way of life and that of their ancestors, including hunting, trapping, fishing, guiding (such as that done by Emmett Chartrand), living in the bush, and their knowledge of traditional medicines (this knowledge is carried, shared, and practiced by Jane Lagassie);
 - c) the hardships that they themselves and their ancestors have experienced living in the area, including displacement and marginalization;
 - d) the history of social interaction and friendship with Algonquins;

²² See pages 14 to 19 of *Document 1 – Enrolment Officer’s Report Regarding Thomas Lagarde dit St. Jeans*

²³ See page 14 of *Document 1 – Enrolment Officer’s Report Regarding Ancestor Thomas Lagarde dit St. Jean*. The Tribunal notes that the photocopy of the Brunet Letter bears a stamp used by the Saint-Sulpice Archive. However, as indicated, the document was not located at that archive.

- e) their families and ancestors by way of photos;
 - f) the stone medicine wheel located on Joe Lagarde's land; and
 - g) general historical information regarding voyageurs.
88. The submission by those in support included family histories in which grandparents spoke of their Algonquin or Indigenous roots and connections. Those in support also outlined the Indigenous ancestry of certain non-lineal ancestors.
89. Those in support submitted that "Algonquin History was mainly based on Oral History not written documented history." Those in support also submitted that, to the extent that some history may have been documented in church records, many churches have burnt down, and the records were lost.
90. Those in support expressed concern that their family line is being judged in a negative light in the media and on social media.

H. Reasons for Decision

91. As noted above, the Tribunal has concluded that Thomas Lagarde dit St. Jean (RIN #11565) is not 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.
92. The Tribunal has come to this conclusion for the following reasons.
93. As demonstrated by the genealogical profile provided by the Enrolment Officer, Thomas Lagarde dit St. Jean (RIN #11565)'s ancestors (with the exception of one very distant grandmother who had a French name) trace back to France and, in any event, do not display any documented indications of being Algonquin or Indigenous.
94. This genealogical profile was not seriously disputed by those in support of Thomas Lagarde dit St. Jean (RIN #11565) remaining on the Schedule of Algonquin Ancestors.
95. This is an important factor as it is difficult to see how a historical person whose ancestors trace their roots back to France could be considered an "Algonquin Ancestor" as that term is described in the Proposed Beneficiary Criteria.

96. Recognizing that the criteria set out in the definition “Algonquin Ancestor” is nuanced, the Tribunal has also considered whether there are other grounds on which Thomas Lagarde dit St. Jean (RIN #11565) might have been considered an Algonquin.
97. The Tribunal notes that its inquiry is focused on the subject ancestor at issue and not other people. As set out above, an “Algonquin Ancestor” must be a specific historical person.
98. Apart from the Brunet Letter, which is discussed in more detail below, none of the historical documents on the Tribunal’s record pertaining to Thomas Lagarde dit St. Jean (RIN #11565), his parents or his children indicate that he is Algonquin or Indigenous. The Tribunal cannot confirm that all documents pertaining to these people are on the Tribunal’s record. However, it is clear that there are a number of available records that pertain to Thomas Lagarde dit St. Jean (RIN #11565) and his family and there is no specific indication that any records have been lost to fires or other similar circumstances. The Tribunal recognizes that those in support contend that records have been lost due to floods or fires. However, the Tribunal cannot make a determination on the theory that records pertaining Thomas Lagarde dit St. Jean (RIN #11565) have not only been destroyed or lost and that those records would have provided a basis for the Tribunal to reasonably conclude that Thomas Lagarde dit St. Jean (RIN #11565) was considered to be an Algonquin. This would be pure speculation that runs counter to the available information.
99. It is important to note that a determination of Algonquin ancestry does not run from the present day back in time whereby the attributes or lifestyle of present day people or their intermediary ancestors are assigned to some historical person. Rather, it runs forward in time from the historical person who is the “Algonquin Ancestor”, and it is that historical person who must be considered an Algonquin or Nipissing. The descendants benefit from the legacy of their ancestors, not the other way around. The object of the analysis is the subject ancestor; also recognizing that information pertaining to the subject ancestor’s parents, children and siblings may inform the analysis.
100. As such, the information regarding the lifestyle and experiences of present day people and their immediate ancestors (parents or grandparents) do not, on their own, provide a basis on which the Tribunal may properly infer that the subject ancestor (in this case Thomas Lagarde dit St. Jean (RIN #11565)) was considered Algonquin by his contemporaries.

101. Also, the oral history presented is of a general nature and is not specific to Thomas Lagarde dit St. Jean (RIN #11565).
102. When assessing oral history, the Tribunal must be cognizant of the guidance set out in Article 8 of the Special Resolution, which provides that:
- When the Tribunal is asked to consider the probative value of evidence presented as Oral History, the Tribunal shall assess whether the Oral History is reliable and what weight is properly assigned to such Oral History by considering all the circumstances relevant to the Oral History and the matter that is sought to be proven by the Oral History, including:
- a) the original source of the Oral History;
 - b) how the Oral History has been recorded and transmitted to others over time;
 - c) whether the person presenting the Oral History is a reasonably reliable source for the Oral History;
 - d) the degree to which the Oral History is known to members of the Algonquin Collective from which the Oral History is said to originate or otherwise relates; and
 - e) the degree to which the Oral History is corroborated by or consistent with other evidence that is available to the Tribunal
103. The present case is not a situation where the only evidence on the Tribunal's record is the claimed oral history and an apparent collective understanding of Indigenous ancestry amongst the descendants of Thomas Lagarde dit St. Jean (RIN #11565). In the present case, the ancestor who is the subject of inquiry is not known to be a descendant of an Algonquin or Indigenous person but is confirmed as being a descendant of people who (with the exception of one very distant grandmother who had a French name) trace back to France.
104. Further, apart from the Brunet Letter, which is discussed below, no historical document pertaining to Thomas Lagarde dit St. Jean (RIN #11565), his ancestors or his children indicates that Thomas Lagarde dit St. Jean (RIN #11565) is Algonquin or Indigenous.
105. The Tribunal does not question the fact that those who made presentations were told by parents or grandparents that they had Indigenous roots. However, the claimed oral history is specific and cannot be attributed to (or otherwise attached to) Thomas Lagarde dit St. Jean (RIN #11565) so as to provide a basis on which the Tribunal could reasonably conclude that Thomas Lagarde dit St. Jean (RIN #11565) was considered to be Algonquin or Nipissing.
106. Furthermore, it is not clear how the Tribunal could reasonably infer that Thomas Lagarde dit St. Jean (RIN #11565) was considered to be Algonquin on the basis of stone monuments, maps,

the physical features of his descendants and other general information. Even if the Tribunal were to accept that such information provides an indication of being Indigenous or even Algonquin, it is difficult to see how such considerations could be specifically attributed to Thomas Lagarde dit St. Jean (RIN #11565).

107. The Tribunal has reviewed the Brunet Letter in detail with a view to assessing:
 - a) what weight, if any, it can give to a photocopy of a document that has not been verified and whose provenance is unknown; and
 - b) regardless of any concerns regarding its provenance, whether the contents of the document would assist the Tribunal in concluding that Thomas Lagarde dit St. Jean (RIN #11565) is properly considered an “Algonquin Ancestor”.
108. The Tribunal cannot attach weight to the Brunet Letter because the Tribunal has been provided only a photocopy and the document remains unverified. As described above, both the Enrolment Officer and the Tribunal have undertaken efforts to locate the original copy of the letter and to identify where it might be archived. Despite these efforts, the original document has not been located. There is no record of this document in the Saint-Sulpice Archive whose stamp apparently appears on the letter itself.
109. The photocopy was first produced in the context of the proceedings before Justice Chadwick by a descendant of Thomas Lagarde dit St. Jean (RIN #11565).
110. The Tribunal has been steadfast in its approach that documents presented to it should be verified or otherwise confirmed as coming from well-know and reputable sources. This approach stems from the requirement that the Tribunal make evidence-based decisions, which necessarily entails that the Tribunal assess the reliability of the evidence presented.
111. This is not to say that a document must come from a recognized archive or have been the subject of previous verification or academic research so as to be deemed reliable by the Tribunal. The Tribunal is free to consider documents (or other evidence such as Oral History) other than those generated or kept by governments, churches, and companies (such as the HBC). For example, the Tribunal has considered information recorded in family Bibles, wills and contracts.

112. However, it is important for the Tribunal to verify and assess documents that do not originate from well-known and reputable sources to confirm what weight, if any, may be attached to them and for what purpose they may be used. This is particularly important when the document at issue is not only unusual but is the only document that identifies the subject ancestor as Algonquin or Indigenous when all other historical documents pertaining to the subject ancestor and the genealogical evidence indicates French ancestry.
113. The Brunet Letter is unusual in light of its contents. In this regard, the Tribunal notes that:
- a) It is not sensibly addressed or signed.
 - b) It is not dated.
 - c) It speaks of a happenstance meeting with Thomas Lagarde dit St. Jean (RIN #11565), who is known to be Catholic, but is identified as a member of the Masons.
 - d) It makes the extraordinary statement that Thomas Lagarde dit St. Jean is a fugitive and is condemned to death. However, there is no evidence that Thomas Lagarde dit St. Jean (RIN #11565) was “condemned to death by the English authority of Montreal.” Documentary evidence confirms that Thomas Lagarde dit St. Jean (RIN #11565) was in debtors’ prison from February 11 to March 4, 1843.²⁴ Also, the documentary evidence indicates that Thomas Lagarde dit St. Jean (RIN #11565) was in Bytown on September 2, 1845, for the baptism of his son by a priest identified as “A. Brunet”.²⁵
 - e) The purpose of reporting on the happenstance meeting with Thomas Lagarde dit St. Jean (RIN #11565) in this manner is not clear. It does not appear that the author of the letter conducted any business or had any meaningful interaction with Thomas Lagarde dit St. Jean (RIN #11565) that would warrant a letter. This makes the letter unlike a will, family Bible or contract where the provenance may be assessed by means other than being held in a reputable archive.

²⁴ ALG 403777 and ALG 40382

²⁵ ALG 40375 and ALG 40376

- f) The Archives for the Diocese of Montreal, which houses letters written by Bishop Bourget, indicated in response to the Enrolment Officer's inquiries that it does not have any incoming correspondence from Father Brunet.²⁶
- g) The Archives of Saint-Sulpice, whose stamp is on the letter, does not have a copy of the letter.²⁷

114. In short, the Tribunal is incapable of assessing the reliability of the Brunet Letter as it has been presented a photocopy of an unverified document, that in its own right is unusual, and therefore puts no weight on the document.
115. Those in support have suggested that the Tribunal engage a handwriting expert to review the Brunet Letter. Again, the Tribunal does not have the original but only a photocopy. It is not clear how the Tribunal or an expert on its behalf is to assess handwriting against a photocopied document. Again, the Tribunal and the Enrolment Officer attempted to locate and verify the Brunet Letter by contacting archives, as noted above.
116. Also, the suggestion to engage a handwriting expert was made by those who apparently know where the original document is stored and could resolve this issue by arranging for the inspection of the original document. Those in support state that the apparent custodian of the original document does not want to be involved as he has been hounded by the media and on social media. The Tribunal is sympathetic to these concerns. However, it seems to the Tribunal that much of the controversy associated with the Brunet Letter could be resolved by arranging for inspection of the document. In any event, the Tribunal views it as inappropriate for it to arrange for an expert to review a photocopy when the original apparently exists but has not been made available for inspection. The Tribunal wants to accommodate the presentation of evidence, but this would be a bridge too far.
117. In any event and leaving aside the Tribunal's concerns regarding provenance, the Tribunal has reviewed the contents of the Brunet Letter to assess whether it would provide a basis on which the Tribunal could reasonably conclude that Thomas Lagarde dit St. Jean (RIN #11565) is identified in a historic record or document dated on or before December 31, 1921, in such a

²⁶ See page 14 of *Document 9 – Enrolment Officer's Response to Initial Submissions 2, 3 & 5 re #11565*

²⁷ See page 14 of *Document 1 – Enrolment Officer's Report Regarding Ancestor Thomas Lagarde dit St. Jean.*

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.

118. The Tribunal acknowledges that the letter identifies Thomas Lagarde dit St. Jean (RIN #11565) and that it is dated on or before December 31, 1921. In this regard, the last date mentioned in the letter is September 22, 1845 and, hence, is presumed to have been written around that time.
119. However, the Tribunal is not able to reasonably conclude on the basis of the letter that Thomas Lagarde dit St. Jean (RIN #11565) “was considered to be an Algonquin or Nipissing, or a sibling of such a person.”
120. At best, this letter would indicate that Thomas Lagarde dit St. Jean (RIN #11565) identified himself as being a descendant of Algonquins in circumstances where Thomas Lagarde dit St. Jean (RIN #11565) wanted to be secretive. He is also reporting that he is a fugitive on the run from a death sentence. This is about as far from a public pronouncement as one might get.
121. This letter ultimately leaves unresolved which of Thomas Lagarde dit St. Jean (RIN #11565)’s contemporaries considered him to be Algonquin as it is in no way public. Indeed, if Thomas Lagarde dit St. Jean (RIN #11565) were truly a fugitive escaping from a death sentence, it would be difficult to imagine that he would be pleased that the person to whom he confessed his situation would report the situation to an ecclesiastical authority in Montreal.
122. Additionally, the Brunet Letter does not exist on its own but must be considered in light of the other historical documents on the Tribunal’s record, including those demonstrating that Thomas Lagarde dit St. Jean (RIN #11565) roots are traceable back to France and there is no indication that his ancestors are Algonquin or Indigenous. The determination of whether a person was “considered Algonquin or Nipissing” does not simply depend on the word “Algonquin” appearing (or not appearing) next to their name. Rather, it requires an attentive examination of the historical documents on the Tribunal’s record.
123. Simply put, even if the Tribunal were to disregard the fact that the Brunet Letter is unverified, any weight that the Tribunal would put on Thomas Lagarde dit St. Jean (RIN #11565)’s apparent self-identification as Algonquin in the circumstances described in the letter is not sufficient to provide a basis on which to reasonably conclude that Thomas Lagarde dit St. Jean (RIN #11565) “was considered to be an Algonquin or Nipissing” in light of:

- a) the preponderance of documents that confirm his French ancestry; and
- b) the lack of any other document pertaining to him, his parents or children suggesting that they are Algonquin or Indigenous.

124. The Tribunal recognizes that those in support have alleged that Indigenous people are not always well documented and that records could have been lost due to fires, floods and other such circumstances. The Tribunal cannot confirm that all documents pertaining to Thomas Lagarde dit St. Jean (RIN #11565) are on its record. However, it is clear that records pertaining to Thomas Lagarde dit St. Jean (RIN #11565) and his family are available. The Tribunal cannot make a determination on the theory that records pertaining to Thomas Lagarde dit St. Jean (RIN #11565) have been destroyed or lost and that those records would have provided a basis for the Tribunal to reasonably conclude that Thomas Lagarde dit St. Jean (RIN #11565) was considered to be an Algonquin. This would be pure speculation.

I. Consideration of Chadwick Decision

125. The Tribunal is aware that the Honourable James B. Chadwick, a retired Justice of the Ontario Superior Court of Justice, heard protest to remove Thomas Lagarde dit St. Jean (RIN #11565) from the Preliminary List of Algonquin Ancestors. This protest was made and determined pursuant to the provisions of the Preliminary Draft Agreement-in-Principle.

126. As noted in Justice Chadwick's decision, his mandate was to determine the protest on the basis of the guidance set out in section 15.7.9 of the Preliminary Draft Agreement-in-Principle. Pursuant to section 15.7.9, an ancestor was not to be removed from the Preliminary List of Algonquin Ancestors unless there was a palpable and overriding error, fraud, or new evidence.

127. In a decision dated May 2, 2013, Justice Chadwick decided that:

Based upon all the evidence, and in particular the new evidence of correspondence between Father Brunet to the Bishop of Montreal dated 1845, which was not before the original Enrolment Board or before the Review Committee when it ordered a hearing into the facts, I am satisfied, on the balance of probabilities, that Thomas Lagarde dit St. Jean is an Algonquin Ancestor. The protest is therefore rejected.

128. The Tribunal has attentively reviewed Justice Chadwick's decision.

129. The Tribunal is not obligated or bound to adhere to Justice Chadwick's decision.

130. In this regard, the Tribunal notes that its jurisdiction and authority is determined by the Special Resolution.
131. Article 77 of the Special Resolution provides that:
- Any matter brought to the Tribunal for determination shall be heard and be determined as a new proceeding, but this does not preclude the Tribunal from considering decisions made by other decision-making bodies including with respect to past enrolment processes.
132. Justice Chadwick’s decision is a decision made by another decision-making body and falls within Article 77 of the Special Resolution.
133. The Tribunal members have great respect for those who have participated in the difficult task of making decisions regarding enrolment and the identification of Algonquin Ancestors, including Justice Chadwick. However, the Tribunal must make decisions based on the evidence before it and in accordance with the requirements of the Special Resolution and the criteria set out in the definition of “Algonquin Ancestor”.
134. As explained above, the evidence before the Tribunal does not provide a sufficient basis on which to reasonably conclude that Thomas Lagarde dit St. Jean (RIN #11565) meets the criteria in the definition of an Algonquin Ancestor.
135. In addition, it appears that the record before Justice Chadwick and the record before this Tribunal are significantly different.
136. In this regard, Justice Chadwick’s decision only mentions Thomas Lagarde dit St. Jean (RIN #11565)’s parents. As such, it does not appear that Justice Chadwick knew that Thomas Lagarde dit St. Jean (RIN #11565)’s roots can be traced back to France and that he is not a descendant of an Algonquin or Indigenous person.
137. Also, Justice Chadwick did not mention the fact that Thomas Lagarde dit St. Jean (RIN #11565) and his children do not appear to have participated in the life events of Algonquins (such as being witnesses to baptisms, marriages, deaths, etc.) and vice-versa.
138. It is clear from his reasons that Justice Chadwick relied on the Brunet Letter in coming to his conclusion that Thomas Lagarde dit St. Jean (RIN #11565) is an Algonquin Ancestor.
139. However, and with the greatest of respect to Justice Chadwick, it does not appear from his reasons that he assessed what weight should be attributed to the letter in light of other evidence

on the record before him²⁸ and how the contents of the Brunet Letter satisfy the criteria set out in the definition of “Algonquin Ancestor.”

140. Tribunal notes that Justice Chadwick did not expressly consider all elements of the definition of “Algonquin Ancestor” and how being identified in the Brunet Letter provides a basis on which to concluded that Thomas Lagarde dit St. Jean (RIN #11565) “was considered to be an Algonquin or Nipissing.”
141. It appears that Justice Chadwick accepted the photocopy of the Brunet Letter at face value. As noted above, the Tribunal is not prepared to accept the letter at face value as it remains unverified.
142. As a final comment, the Tribunal recognizes that Justice Chadwick is a well respected and accomplished arbitrator and judge. However, Justice Chadwick’s decision was not a “legal” decision that was based on his understanding and application of the statutory, regulatory, or common law that apply in Ontario or Canada. Rather, it was a factual decision based on his understanding and appreciation of the facts on the record before him (which is different from the record before this Tribunal). Justice Chadwick holds no particular expertise in matters that pertain to Algonquin enrolment or ethno-historical issues that pertain to the Algonquin Nation. This Tribunal is in an equal, if not better, position to assess the facts associated with this matter.

J. The connection that individuals have with Algonquin culture and ways

143. Those in support described their connection with Algonquin culture and ways and how being identified as part of the Algonquin community is important to them.
144. The Tribunal accepts these statements as genuine. The Tribunal also accepts that those who were enrolled on the basis of being a lineal descendant of Thomas Lagarde dit St. Jean (RIN #11565) did so in good faith.
145. The Tribunal recognizes that its determination may result in individuals being removed from the Enrolment List. This is the reality of the Tribunal’s inquiry process and the fact that this

²⁸ It appears to the Tribunal that the record before Justice Chadwick was minimal compared to the record before the Tribunal. As such, it is not clear that Justice Chadwick had other evidence before him by which to assess the contents of the letter. Also, it does not appear that the provenance of the Brunet Letter was questioned.

process is being undertaken to ensure that beneficiaries to the treaty being negotiated with the Governments of Ontario and Canada are Aboriginal rights-bearing Algonquins.

146. However, the Tribunal notes that its determination is only with respect to Thomas Lagarde dit St. Jean (RIN #11565). It is possible that those who rely on Thomas Lagarde dit St. Jean (RIN #11565) may have an alternative Algonquin Ancestor or may be a descendant of another historical person who may qualify as an Algonquin Ancestor. These are considerations for those affected by this decision to further explore and research. The Tribunal's present ruling does not preclude Algonquin (or Indigenous) ancestry by some other historical person.

K. Conclusion

147. The Tribunal has unanimously determined that Thomas Lagarde dit St. Jean (RIN #11565) is not 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.
148. Pursuant to Article 100 of the Special Resolution, Thomas Lagarde dit St. Jean (RIN #11565) will be removed from the Schedule of Algonquin Ancestors.
149. Pursuant to Article 103 of the Special Resolution, the Enrolment Officer will undertake a review of the Enrolment List to identify those individuals who no longer meet Article 2.1(b)(ii) of the Enrolment Criteria and remove the names of those individuals from the Enrolment List. The Enrolment Officer will also provide the names of those individuals to the Tribunal Chairperson who will notify those individuals that they are no longer Enrolled.

TO: Joan Holmes (Enrolment Officer)
D. Scott
Lynn Clouthier
Veldon Coburn
Connie Mielke
Denise Chaput
Chief Wendy Jocko
Chief Greg Sarazin
L Bertrand

Jane Lagassie
Reid Godin
Chief Clifford Bastien
Pam Vanstradden
Jamie Turcotte
Darrel Leroux on behalf of AOPFN Chief and Council
Angelina Commanda
Hazel Turcotte

AND TO: Algonquin Negotiation Representatives

AND TO: Enrolment Officer

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

ADDENDUM

1. In an effort to increase the transparency of the Tribunal's process and to hold true to the teachings of the Seven Grandfathers, the Tribunal takes this opportunity to explain how it handled the unexpected and concerning incident that occurred at the June 19, 2023 hearing on this matter.
2. On the basis of the information that is available to the Tribunal, the Tribunal understands the facts relevant to this incident to be as follows:
 - a) During the course of her presentation in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors, Connie Mielke made statements that were highly critical of Dr. Daryll Leroux and impugned his professionalism and motivations. Despite being cautioned by the Advisory Member that such comments are not relevant to the issue at hand, Ms. Mielke persisted indicating that this is her time to speak.
 - b) Dr. Leroux attended the hearing as a representative of Chief and Council of the AOPFN and was unsettled by Ms. Mielke's comments.
 - c) During a break in the Tribunal's hearing, an incident occurred whereby attendees in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors directed chatter and perhaps specific comments at Dr. Leroux. While accounts are not clear, this interaction appears to have culminated in Dr. Leroux being bumped by a person attending the hearing in support of keeping Thomas Lagarde dit St. Jean (RIN #11565) on the Schedule of Algonquin Ancestors.
 - d) Dr. Leroux left the hearing indicating that he had been assaulted and did not feel safe.
 - e) Within minutes of Dr. Leroux leaving the hearing, the Tribunal received comments through the chat function on its electronic video conferencing platform that Dr. Leroux had been assaulted.
3. The next day a representative of AOPFN Chief and Council attended the hearing scheduled for June 20th. The representative expressed Chief and Council's concern regarding reports of Dr. Leroux being assaulted and that it is wholly inappropriate for anyone to be treated in such a

manner. AOPFN Chief and Council asked to receive a report from the Tribunal regarding the events that transpired at the June 19th hearing.

4. In the course of reporting on this matter, Member Jan Leroux and Member Andre Carle discussed the events of June 19th hearing as they pertain to the incident involving Dr. Leroux with representatives of AOPFN Chief and Council and also outlined the Tribunal's established procedure at hearings. They did not discuss other aspects of the inquiry or any other Tribunal business.
5. Also, the Advisory Member spoke with the AOPFN's legal counsel with a view to addressing any concerns that the AOPFN Chief and Council may have regarding the incident involving Dr. Leroux.
6. Ultimately, AOPFN Chief and Council indicated that they were disappointed with the incident and also indicated that the Tribunal should provide an opportunity for Dr. Leroux to make responding submissions in respect of both the inquiry into Thomas Lagarde dit St. Jean (RIN #11565) and into Sophie Emilie Jamme dite Carriere (RIN #11566), Dr. Leroux did not attend the hearing for Sophie Emilie Jamme dite Carriere (RIN #11566) on June 20th due to his treatment the day before.
7. The Tribunal held a hearing on July 6, 2023 via electronic video conference as noted above.
8. Between the time when AOPFN Chief and Council indicated their concerns regarding the incident and when the Tribunal concluded its hearing and retired to deliberate on this matter, Member Jan Leroux and Member Andre Carle did not speak to the other panel members regarding the Tribunal's proceedings.
9. When the Tribunal commenced its deliberations of this matter, the Chairperson first called upon Members Deroneth, McLaren and Tinney to provide their views and then expressed her own views regarding the outcome of this inquiry. These members were unanimous in their conclusion that Thomas Lagarde dit St. Jean (RIN #11565) is not properly considered an Algonquin Ancestor on the basis of the evidence before the Tribunal and for the reasons described above. The Chairperson then called upon Member Jan Leroux to provide her views. Member Jan Leroux agreed with the conclusion reached by the other members. The

Chairperson and Members Deroneth, McLaren and Tinney confirm that they came to their decisions on their own and independently from any other members.

Deborah Moore (Chairperson)
Connie Deroneth
Jan Leroux
Robin McLaren
Robin Tinney