

INDIAN CLAIMS COMMISSION

NADLEH WHUT'EN FIRST NATION LEJAC SCHOOL INQUIRY

PANEL

Commissioner Daniel J. Bellegarde (Chair)
Commissioner Alan C. Holman

COUNSEL

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To the Indian Claims Commission
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SUMMARY

NADLEH WHUT'EN FIRST NATION LEJAC SCHOOL INQUIRY British Columbia

The report may be cited as Indian Claims Commission, *Nadleh Whut'en First Nation: Lejac School Inquiry* (Ottawa, December 2008).

*This summary is intended for research purposes only.
For a complete account of the inquiry, the reader should refer to the published report.*

Panel: Commissioner D. J. Bellegarde (Chair), Commissioner A.C. Holman

Band Council - Band Council Resolution; **British Columbia; Compensation** - Loss of Use; **Fiduciary Duty** - Reserve Creation; **Reserve** - Compensation

THE SPECIFIC CLAIM

The Nadleh Whut'en First Nation submitted a claim to the Specific Claims Branch of the Department of Indian and Northern Affairs on May 13, 1992, alleging there was a failure to meet the statutory requirements surrounding the taking of reserve lands (IR 4) for school purposes. On September 5, 1995, Canada issued a preliminary rejection of the claim. The First Nation submitted additional arguments to Canada on February 5, 1997. On June 8, 2002, the First Nation requested that the Indian Claims Commission (ICC) conduct an inquiry into its claim. The ICC agreed to the request on August 6, 2002. The First Nation submitted revised claim submissions to Canada in September, 2003. While the inquiry was never formally put into abeyance, there were a number of delays as Canada reviewed the supplemental issues that had been brought forward by the First Nation. The First Nation's supplementary submissions were formally rejected by Canada on July 11, 2007.

The ICC conducted a community session in November, 2007 to receive Elders' testimony. Following written submissions, an oral hearing was held in Vancouver on April 10, 2008. Initially, the panel was composed of three members: Commissioner Daniel J. Bellegarde (Chair), Commissioner Alan C. Holman, and Commissioner Jane Dickson-Gilmore; however, Ms. Dickson-Gilmore was unable to attend the Vancouver oral session and thus withdrew from the panel before oral submissions were made. Therefore, the panel's findings concerning this claim have been reached by Commissioners Bellegarde and Holman alone.

BACKGROUND

The Nadleh Whut'en Band, known as the Fraser Lake Band until 1990, is part of the Carrier group of First Nations. It is located in the northern interior of British Columbia. Indian Reserve Commissioner Peter O'Reilly set aside Indian Reserves 1-4 for the Band on August 31, 1892, and the lands were surveyed in 1894.

Initially the Nadleh Whut'en Band was part of the Babine and Skeena River Agency of the Department of Indian Affairs but in 1910 came under the administration of the Stuart Lake Agency. The focus of this inquiry involves Indian Reserve (IR) 4, also known as the Seaspunkut Reserve. In 1938, title to these reserve lands was transferred to the federal government by the Province of British Columbia by provincial Order in Council 1036.

In the early 1900s salmon stocks on the Fraser and Skeena Rivers were diminishing. Settlers in the area, who were operating a thriving salmon canning industry, alleged that the reduction in the fish stocks was caused by the fish weirs, or barricades, traditionally used by the First Nations in the region to catch their fish.

At this time there were also requests that the federal government establish a school for the children of the bands in the region. In the fall of 1906, some of the bands and the federal government concluded an agreement (the Babine Proposition) whereby the bands would give up the use of their fish weirs in return for a number of conditions being met. Among the items included in the Babine Proposition of 1906 was Canada's agreement to provide an industrial school in the district. It is not clear from the documentary record whether or not the Nadleh Whut'en Band was part of this agreement. However, five years later, the Band was part of the Fort Fraser Barricade Agreement, signed on June 15, 1911, under which Canada agreed to establish a school within the Stuart Lake Agency.

During this period, the Oblates of Mary Immaculate (OMI), an Order of the Roman Catholic Church, continually petitioned the government for a school to serve the children of the First Nations in the region. The OMI was prepared to operate a boarding school if there was government funding available, but at this time the department's preference was for day schools. In the summer of 1913, when he turned down a 1912 request from the OMI for a 100-pupil boarding school, Indian Affairs Secretary J.D. McLean said such an undertaking would not be possible until there was a rail line to bring in supplies. However, he indicated the department would give consideration to establishing one or two day schools. The following summer, in 1914, a day school opened at Stuart Lake. In 1915, the federal government agreed to fund the operations of an Indian residential school at Fort St. James in the Fraser Lake Agency if the OMI would fund its construction. In February, 1917, a residential school for 50 boys opened in a temporary building at Stuart Lake.

The OMI continued to press the government for a larger boarding school at Fraser Lake and in July, 1920, an Order in Council was passed for the construction of a boarding school, with both the Indian agent and the OMI agreeing that the best location for the school was on the Seaspunkut Reserve, IR 4. However, it was not until March, 1921, that the Indian Agent for the Fraser Lake Band was instructed to obtain a Band Council Resolution (BCR) from the Band setting aside land for school purposes. On April 12, 1921, Indian Agent McAllan reported he met with the male members of the Band and that, in a BCR signed by the chief and headmen, they had agreed to set aside 260 acres on the eastern side of IR 4 for a school.

The school opened in January, 1922 and in March, Indian Agent McAllan reported the school was operating at its full capacity of 125 students. From its inception, the school operated a farm (to feed the students) and cut wood (for heating and cooking) from the surrounding land. It was run by the OMI and over the years the school was used for retreats and other OMI functions.

A review of admission records shows that, in addition to children from Nadleh Whut'en attending the school, there were children from other bands in the Stuart Lake Agency along with some from bands outside the agency. In the fall of 1938, Indian Agent R.H. Moore of the Stuart Lake Agency complained to Ottawa that the enrolment of children from elsewhere at the Lejac Residential School (as the Fraser Lake school had been renamed) was affecting the enrolment of children from within his agency. The concerns of the Stuart Lake bands and Indian agents that there was not enough room at the school for the agency's children persisted. By 1946, there was an acknowledgement from the Indian Affairs department that the Lejac School was not meeting the needs of the children of the Stuart Lake Agency and consideration was given to establishing day schools in the agency. However, it took until 1954 to establish a day school at Nadleh Whut'en. In 1976, the Lejac School closed and the lands and assets thereon reverted to the Band.

ISSUES

1) Was the Band Council Resolution of April 12, 1921 ("1921 BCR.") lawful and sufficient under the Indian Act, RSC 1906 as amended, to allow Canada to take and use approximately 260 acres of IR No. 4 (the "Lands") for the purpose of the Lejac School? 2) If the 1921 B.C.R was lawful and sufficient under the Indian Act, did Canada breach its fiduciary obligations arising at common law and/or under the Constitution Act, 1867 and/or under the Terms of Union, 1871 by: (a) failing to obtain the consent of Band membership and/or the Governor-in-Council prior to taking and using the Lands for the purpose of the Lejac School, (b)

failing to compensate the Band for the use of the Lands between 1921 - 1976, and (c) failing to ensure that school-aged children from the Band would be granted admission to the Lejac School? 3) Did Canada, due to the fact the school was located on reserve land set aside for that purpose, have a duty to ensure that all school-age children of the Nadleh Whut'en First Nation (formerly the Fraser Lake Indian Band) had the opportunity to be enrolled in the former Lejac Industrial School? 4) If the answer to 3) is yes, did Canada breach that duty? 5) Did Canada have a duty to ensure that the former Lejac Industrial School was used only for school purposes? 6) If the answer to 5) is yes, did Canada breach that duty? 7) If the answer to 5) is no, did Canada have a duty to ensure that compensation was paid to the Band when the school was used for other than school purposes? 8) Did Canada have a duty to protect the reserve land from any detrimental effects caused by the construction and use of a sewage lagoon on land set aside for the school? 9) If the answer to (8) is yes, did Canada breach that duty? 10) Did Canada have a duty to ensure the Band received compensation for timber cut from the school and school farms?

FINDINGS

The panel agrees with counsel for both the Nadleh Whut'en First Nation and the Crown that the crux of this claim is not about school or education but rather the use of reserve land without compensation. The panel finds that the Band had a cognizable interest in the lands at IR 4 at the time the school was created. It finds that the federal Crown had a fiduciary duty between 1921, when the First Nation passed a BCR consenting to the use of reserve lands as a school, and 1938, when title to its reserve lands was transferred by British Columbia to Canada, to exercise fiduciary obligations of loyalty, good faith and ordinary prudence with a view to the best interests of the First Nation. After 1938, once the *Indian Act* applied to the lands, the Crown's fiduciary duty expanded to include the protection and preservation of the Band's interest from exploitation. These fiduciary duties were breached when the Crown allowed 260 acres of lands set aside for reserve to be used for school purposes without any compensation to the Band. The fact that the Band passed a BCR agreeing to have the school constructed on its lands is not sufficient to remove the Crown's fiduciary obligations, and there is no evidence that the Band had been informed, when it provided the BCR request of it, that it knew the extent to which its lands would be used or that compensation would not be forthcoming. Given this finding, the panel concludes that the First Nation is entitled to compensation for the use of its lands between 1922 and 1976.

RECOMMENDATION

That under Canada's Specific Claims Policy, Canada negotiate with the Nadleh Whut'en First Nation for compensation regarding the loss of the full use and enjoyment of the eastern portion of Indian Reserve 4 lands that were set aside for school purposes.

REFERENCES

In addition to the various sources noted below, ICC inquiries depend on a base of oral and documentary research, often including maps, plans, and photographs, that is fully referenced in the report.

Cases Referred To

Belfast Corporation v. O.D. Cars Ltd., 1960 AC 49; *Blueberry River Indian Band v. Canada* (1995), 130 DLR (4th) 193 (SCC); *Frame v. Smith*, [1987] 2 SCR 9; *Guerin v. The Queen*, [1984] 2 SCR 335; *Hodgkinson v. Simms*, [1994] 3 SCR 377; *Lac Minerals v. International Corona Resources Ltd.*, [1989] 2 SCR 574; *M. (K) v. M. (H)* (1992) 96 DLR (4th) 289 (SCC); *Manitoba Fisheries Ltd. v. Canada*, [1979] 1 SCR 101; *Osoyoos Indian Band v. Oliver (Town)*, [2001] 3 SCR 746; *Quebec (A.G.) v. Canada (National Energy Board)*, [1994] 1 SCR 159; *R. v. Sparrow*, [1990] 1 SCR 1075; *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245.

ICC Reports Referred To

Lower Similkameen Indian Band: Vancouver, Victoria and Eastern Railway Right of Way Inquiry (Ottawa, February 2008).

Treaties and Statutes Referred To

Indian Act, RSC 1906.

Other Sources Referred To

DIAND, *Outstanding Business: A Native Claims Policy - Specific Claims* (Ottawa: Minister of Supply and Services, 1982).

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PART I
INTRODUCTION

BACKGROUND TO THE INQUIRY

The Nadleh Whut'en Band, known as the Fraser Lake Band until 1990, is located in the northern interior of British Columbia. Indian Reserve Commissioner Peter O'Reilly set aside Indian Reserves 1-4 for the Band on August 31, 1892, and the lands were surveyed in 1894.

Initially the Nadleh Whut'en Band was part of the Babine and Skeena River Agency of the Department of Indian Affairs, but in 1910 came under the administration of the Stuart Lake Agency. The focus of this inquiry involves IR 4, also known as the Seaspunkut Reserve, located on the south shore of Fraser Lake. In 1938, title to these reserve lands was transferred to the federal government by the Province of British Columbia.¹

In the early 1900s salmon stocks on the Fraser and Skeena Rivers were diminishing. Settlers in the area, who were operating a thriving salmon canning industry, alleged that the reduction in the fish stocks was caused by the fish weirs, or barricades, traditionally used by the First Nations in the region to catch their fish. At this time there were also requests that the federal government establish a school for the children of the bands in the region. In the fall of 1906, some of the bands and the federal government concluded an agreement (the Babine Proposition), whereby the bands would give up the use of their fish weirs in return for a number of conditions being met. Among the items included in the Babine Proposition of 1906 was Canada's agreement to provide an industrial school in the district. It is not clear from the documentary record whether or not the Nadleh Whut'en Band was a part of this agreement. However, five years later, the Band was part of the Fort Fraser Barricade Agreement, signed on June 15, 1911, under which Canada agreed to establish a school within the Stuart Lake Agency.

In 1914, a day school opened at Stuart Lake. In 1915, the federal government agreed to fund the operations of an Indian residential school at Fort St. James in the Fraser Lake Agency if the Oblates of Mary Immaculate (OMI), an Order of the Roman Catholic Church, would fund its

¹ The Order in Council effecting this transfer of title was not placed in evidence: however, it is referred to by Canada in its Responding Submissions, at para. 34 which states that "Provincial Order-in-Council 1036 was passed on July 29, 1938, allowing for formal reserve creation of Seaspunkut IR No. 4 by Canada." The 1938 Order in Council is also referred to in *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245.

construction. In February, 1917, a residential school for 50 boys opened in a temporary building at Stuart Lake.

In July, 1920, an Order in Council was passed for the construction of a boarding school, with both the Indian agent and the OMI agreeing that the best location for the school was on the Seaspunkut Reserve, IR4. On April 12, 1921 Indian Agent McAllan reported he met with the male members of the Band and, in a Band Council Resolution signed by the chief and headmen, they agreed to set aside 260 acres on the eastern side of IR4 for a school.

The school opened in January, 1922. From its inception the school operated a farm (to feed the students) and cut wood (for heating and cooking) from the surrounding land. It was run by the OMI and over the years the school was used for retreats and other OMI functions. In addition to children from Nadleh Whut'en attending the school, there were children from other bands in the Stuart Lake Agency as well as some from bands outside the agency. In the fall of 1938, Indian Agent R.H. Moore of the Stuart Lake Agency complained to Ottawa that the enrolment of children from elsewhere at the Lejac Residential School (as the Fraser Lake school had been renamed) was affecting the enrolment of children from within his agency. In 1976, the school closed and the lands and assets thereon reverted to the Band.

The Nadleh Whut'en First Nation submitted a claim to the Specific Claims Branch of the Department of Indian and Northern Affairs on May 13, 1992, alleging that there was a failure to meet the statutory requirements surrounding the taking of reserve lands (IR 4) for school purposes. On September 5, 1995, Canada issued a preliminary rejection of the claim. The First Nation submitted additional arguments to Canada on February 5, 1997. On June 8, 2002, the First Nation requested that the Indian Claims Commission (ICC) conduct an inquiry into its claim and the ICC agreed to do so on August 6, 2002. The First Nation submitted revised claim submissions in September, 2003. While the inquiry was never formally put into abeyance, there were a number of delays as Canada reviewed the supplemental issues that had been brought forward by the First Nation. The First Nation's supplementary submissions were formally rejected by Canada on July 11, 2007.

The ICC conducted a community session in November, 2007, to receive Elders' testimony. Following written submissions, an oral hearing was held in Vancouver on April 10, 2008. Initially, the panel was composed of three members: Commissioner Daniel J. Bellegarde (Chair), Commissioner Alan C. Holman, and Commissioner Jane Dickson-Gilmore; however, Ms. Dickson-

Gilmore was unable to attend the Vancouver oral session and thus withdrew from the panel. Therefore, the panel's findings concerning this claim have been made by Commissioners Bellegarde and Holman alone.

MANDATE OF THE COMMISSION

The Indian Claims Commission (ICC) was established through Order in Council on July 15, 1991 as an interim measure in the federal specific claims process.² The Specific Claims Policy is set forth in a 1982 booklet published by the Department of Indian Affairs and Northern Development entitled *Outstanding Business: A Native Claims Policy - Specific Claims*.³ The Commission itself was announced and established in 1993.

The Commission's mandate to conduct inquiries pursuant to the *Inquiries Act* is set out in a commission issued on September 1st, 1992. The Order in Council directs: that our Commissioners proceed on the basis of Canada's Specific Claims Policy ... by considering only those matters at issue when the dispute was initially submitted to the Commission, inquire into and report upon:

- (a) whether a claimant has a valid claim for negotiation under the Policy where that claim has already been rejected by the Minister; and,
- (b) which compensation criteria apply in negotiation of a settlement, where a claimant disagrees with the Minister's determination of the applicable criteria.⁴

² A specific claim is considered to comprise the non-fulfilment of a treaty or agreement between Indians and the Crown; breach of an obligation arising under the *Indian Act* or any other statute concerning Indians, or the regulations thereunder; breach of an obligation arising from the Government of Canada's administration of Indian funds or other assets; illegal disposition of Indian land; failure to provide compensation for reserve lands taken or damaged by the Government of Canada or any of its agencies, and fraud in connection with the acquisition or disposition of Indian reserve land by employees or agents of Canada where such a fraud can be clearly established.

³ Department of Indian Affairs and Northern Development (DIAND), *Outstanding Business: A Native Claims Policy - Specific Claims* (Ottawa: Minister of Supply and Services, 1982), reprinted in [1994] 1 ICCP 171-85.

⁴ Commission issued September 1, 1992, pursuant to Order in Council PC 1992-1730, July 27, 1992, amending the Commission issued to Chief Commissioner Harry S. LaForme on August 12, 1991, pursuant to Order in Council PC 1991-1329, July 15, 1991 (Consolidated Terms of Reference).

In considering a specific claim submitted by a First Nation to Canada, the Commission must assess whether Canada owes an outstanding lawful obligation to the First Nation in accordance with the guidelines provided in *Outstanding Business*:

The government's policy on specific claims is that it will recognize claims by Indian bands which disclose an outstanding "lawful obligation," i.e., an obligation derived from the law on the part of the federal government.

A lawful obligation may arise in any of the following circumstances:

- i) The non-fulfilment of a treaty or agreement between Indians and the Crown.
- ii) A breach of obligation arising out of the *Indian Act* or other statutes pertaining to Indians and the regulation thereunder.
- iii) A breach of an obligation arising out of government administration of Indian funds or other assets.
- iv) An illegal disposition of Indian land.⁵

In addition to the foregoing, the government is prepared to acknowledge claims which are based on the following circumstances:

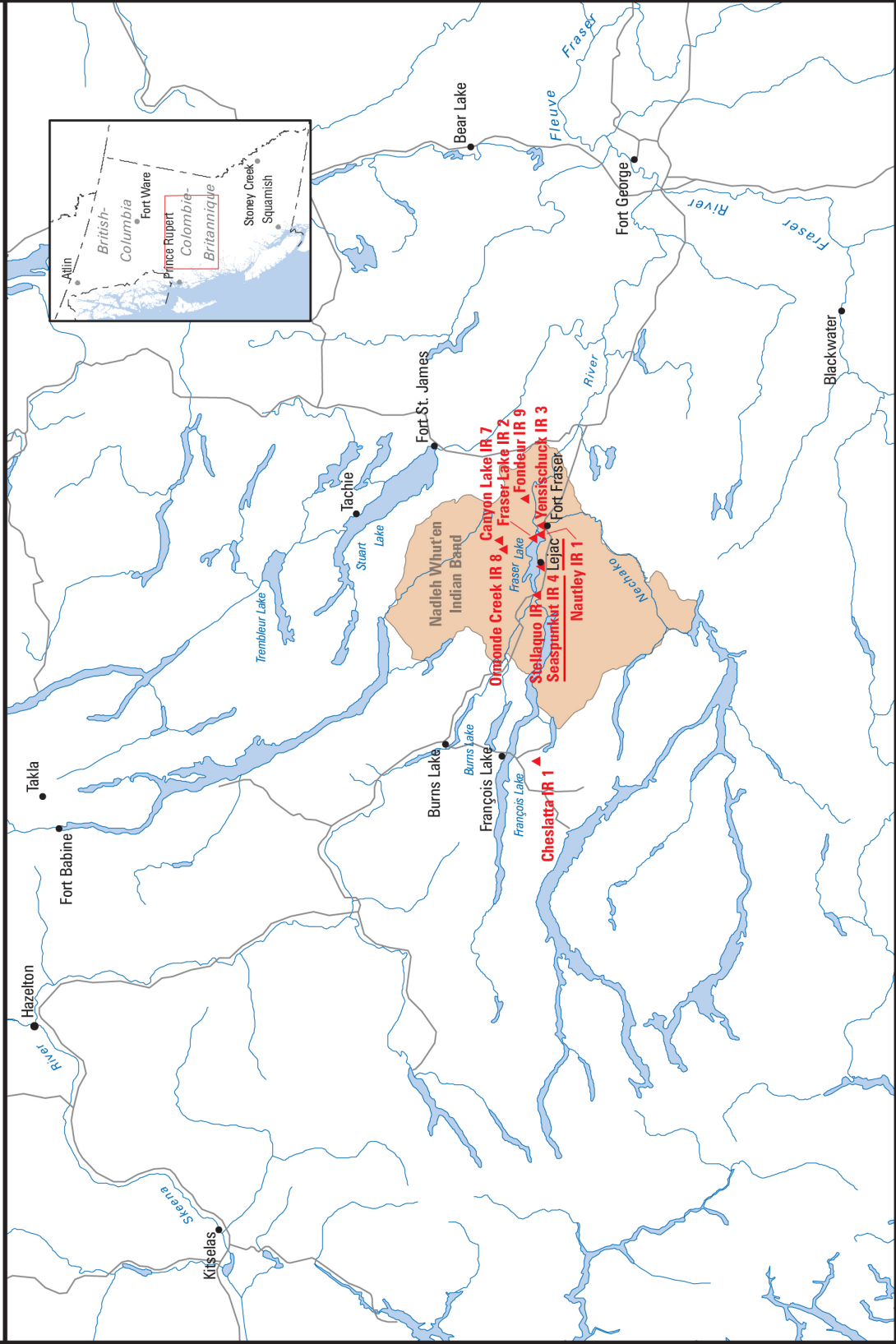
- i) Failure to provide compensation for reserve lands taken or damaged by the federal government or its agencies under authority.
- ii) Fraud in connection with the acquisition or disposition of Indian reserve land by employees or agents of the federal government, in cases where the fraud can be clearly demonstrated⁶

⁵ Department of Indian Affairs and Northern Development (DIAND), *Outstanding Business: A Native Claims Policy - Specific Claims* (Ottawa: Minister of Supply and Services, 1982), 20, reprinted in [1994] 1 ICCP 171-85.

⁶ *Outstanding Business*: 20; reprinted in [1994] 1 ICCP 179-80.

Map 1

Claim Area Map



PART II

THE FACTS

The Nadleh Whut'en Indian Band ⁷ is located in the northern interior of British Columbia. The Band is part of the Carrier Group of First Nations and was included in the Hoquelget Division of the Babine and Skeena River Agency until 1910, when it became part of the Stuart Lake Agency. In 1892, Indian Reserve Commissioner O'Reilly set aside reserves for the Fraser Lake Indian Band, including IR 4, Seaspunkut, a 630-acre reserve on Fraser Lake. The reserves were surveyed in the summer of 1894, and the plan of the reserves was approved by the provincial Chief Commissioner of Lands and Works in December, 1895. In 1938, title to the reserve lands was transferred by the Province of British Columbia to Canada.

In 1910, Indian Agent McAllan reported that the First Nations in the Stuart Lake Agency wanted a day school established in the area. His correspondence indicated a conflict with Father Coccola, who was opposed to a day school and advocated for an industrial school. Eventually, the establishment of a day school at Stoney Creek was opened.

The following year, the Fort Fraser Barricade Agreement was concluded. The First Nations in the Stuart Lake Agency, including Nadleh Whut'en, agreed to stop fishing with weirs in exchange for benefits including the provision of nets, seeds, farm equipment, fishing stations and the establishment of a boarding school in the Stuart Lake Agency. However, the Department was not prepared to undertake construction of a boarding school in the Stuart Lake Agency until the Grand Trunk Pacific Railway was completed and operational.

In 1917, a school was opened at Stuart Lake, approximately 40 miles north of Fraser Lake, under Father Joseph Allard, of the Order of the Oblates of Mary Immaculate (OMI). The Stuart Lake School opened as a day school, but was converted to a boarding school in 1917. In February, 1919, Father Allard advised the government that the accommodations at the Stuart Lake School were not adequate.

A month later, Indian Agent McAllan recommended that a school be located on Seaspunkut Indian Reserve (IR) No. 4. The reserve contained 506 acres with only two families present, and it

⁷ The Nadleh Whut'en Indian Band was known as the Fort Fraser Band, Fraser's Lake Band, or the Fraser Lake Band, until 1990.

was felt that 300 acres could easily be appropriated for the school. The location of the school on IR 4 was approved by Reverend Bunoz.

In July 1920, an Order in Council awarded a construction contract for an Indian boarding school at Stuart Lake to a Mr. Moncrieff. In March, 1921, J.D. McLean, the Assistant Deputy Superintendent General and Secretary of Indian Affairs, wrote to Indian Agent McAllan and instructed him to obtain a Band Council Resolution (BCR) setting aside 300 acres of IR 4 for the school.

In April 1921, Indian Agent McAllan reported that a meeting of the male members of the Band had been held, the Band had agreed to set aside 260 acres on the east half of the reserve, and a BCR had been signed by the Chief and principal headmen setting aside 260 acres for the erection of an Indian school and farm ground. In addition to the BCR, McAllan enclosed a sketch of IR 4 showing cultivated land and Indian houses on the west half and the school on the east half. On the BCR, McAllan's signature appears under his name. The names of the Chief and Head Men are handwritten in the same hand, and the "X"s accompanying the names appear to be written in the same hand.

McAllan did not report regarding the circumstances of the meeting; therefore, it is not known how people were notified of the meeting; how much notice was received; the number or identity of Band members present at the meeting; whether a vote occurred; and, if so, who voted for or against the location of the school on IR 4. Also, the BCR does not mention compensation for the use of the land on the Seaspunkut reserve, nor is there any record that the 260 acres "set aside" for the school was ever surveyed.

On January 17, 1922, the Fraser Lake Indian Boarding School opened with 80 students attending. The school was renamed in 1931 as the Lejac Indian Residential School. Most, if not all, of the students enrolled the first year were from bands within the Stuart Lake Agency. However, data regarding school enrollment is incomplete, and it is not clear how many children from Nadleh Whut'en attended the school as the information from many years of the school's operation relates to the Stuart Lake Agency as a whole, rather than on an individual band level. Throughout its operation, the school was often full, and there were many requests for additional funding. These requests were either refused, or funding was slightly increased.

A.V. Parminter, Regional Inspector of Indian Schools examined the issue of schooling in the Stuart Lake Agency in 1954. He confirmed that Lejac was overcrowded, and endorsed the government's plans to build a three classroom block and open a day school at Lejac to operate simultaneously with the residential school. Parminter noted 32 school-age children in the Band, of whom 12 were not attending school because of lack of accommodation. The day school was opened in 1956, and the 1957 Agency Return on Pre-School and School Age Children for June 30, 1957, showed for the Fraser Lake Band, 30 school-age children, all of whom were attending "Indian Day School".

Over the years, the OMI used the school for retreats and other non-school related functions. At one point, Bishop Coudert, the Coadjutor Bishop appointed to assume Bishop Bunoz's role, advised the Deputy Superintendent General of Indian Affairs that he had moved to Lejac, and requested approval to build his residence. His request was investigated by Indian Agent Moore, who reported that it would be best to have the visiting priests not living at the school. He considered that should the project go ahead, proceeds from the sale or lease should benefit the Band. MacKenzie instructed Indian Agent Moore to place the matter before the Indians and to advise the Department of their wishes, as the Bishop's plans exceeded the purpose set out in the 1921 BCR.

Bishop Coudert objected to this process, expressing his belief that Canada held title to the land. However, the Indian Affairs department advised that the land was to be used solely for school purposes, and that if it was no longer required for school purposes, the land would be returned to the Band. Otherwise, any other use required Band approval. Bishop Coudert left Lejac in 1937-38. There is no evidence that an OMI residence was constructed.

In the 1930's, the Lejac School began to have problems with its septic system. The problem became critical in 1959, when effluent began to contaminate the water supply. A sewage lagoon was recommended, so that the sewage from all of the school buildings would flow into the lagoon. Construction of the lagoon began in August 1959, and was completed a year later. However, the lagoon was also problematic and affected the school's water supply. In 1967, the George family, resident on the west side of IR 4 since 1949 and located about 400 feet from the lagoon, wrote to the Indian Affairs department complaining about odours from the sewage lagoon. The Georges were relocated and paid \$16,000.00.

To ensure that Band members would not move into the vicinity of the sewage lagoon, a BCR was passed, which assigned Lot 2 containing 12.9 acres on IR 4 to Indian Affairs for “an indefinite period”. In April 1969, title to Lot 2 was registered in the name of the Branch. There is no record that the Band was paid compensation for the loss of use of Lot 2 on IR 4.

An issue surrounding the use of timber arose in 1955, when the Lejac School applied to the Province to cut timber for hay sheds and for sale. Principal Kelly had understood that the lands were not reserve lands. The question of the status of the lands was referred to W.S. Arneil, Indian Commissioner, by Superintendent Howe, who also assumed that the Crown held the lands.

Questions regarding the status of the school lands continued. There was uncertainty as to whether the Band should receive compensation for a road right of way being constructed across the reserve. Principal Kelly agreed to accept \$100.00 per acre as compensation for the right-of-way; however, eventually, the Band was paid the compensation as Indian Commissioner Arneil acknowledged that any compensation for the use of reserve lands should be credited to the Band.

In 1969, on the question of the Band’s entitlement to receive lease revenue from the Indian Affairs department for the use of reserve land for the school, R.M. Hall, the Regional Superintendent of Education, advised that there was no precedent for compensation. However, in 1970, Chief Peter George wrote to Indian Affairs Minister Jean Chretien advising him that none of the Band children attended the school, and he requested that Indian Affairs pay rent for the use of the reserve. Departmental officials investigated the matter and concluded that nothing in the original agreement allowed for compensation to the Band for use of the land.

In 1975, the Lejac School ceased operating as a school, and the lands and assets thereon reverted to the Band. The school remained open as a residence for Indian children. Students from the Fraser Lake Band thereafter attended the Fraser Lake Public School.

At the Community Session conducted at Nadleh Whut’en First Nation on November 22, 2007, there was little oral history on how the school came to be located on IR 4, or how the Band permitted the use of the reserve. Elder George George Sr. stated that although his father was a chief of the reserve until 1956, his father did not know of any meetings held concerning the school. Elder Jack Lacerte stated that he was told that the Ketlo family had turned over some of the land for the school.

PART III

ISSUES

1. Was the Band Council Resolution of April 12, 1921 ("1921 BCR") lawful and sufficient under the *Indian Act*, R.S.C. 1906 as amended, to allow Canada to take and use approximately 260 acres of IR No. 4 (the "Lands") for the purpose of the Lejac School?
2. If the 1921 BCR was lawful and sufficient under the *Indian Act*, did Canada breach its fiduciary obligations arising at common law and/or under the *Constitution Act, 1867* and/or under the *Terms of Union, 1871* by:
 - (a) failing to obtain the consent of Band membership and/or the Governor in Council prior to taking and using the Lands for the purpose of the Lejac School;
 - (b) failing to compensate the Band for the use of the Lands between 1921 - 1976?
 - (c) failing to ensure that school aged children from the Band would be granted admission to the Lejac School?
3. Did Canada, due to the fact that the school was located on reserve land set aside for that purpose, have a duty to ensure that all school-aged children of the Nadleh Whut'en First Nation (formerly Fraser Lake Indian Band) had the opportunity to be enrolled in the former Lejac Industrial school?
4. If the answer to (3) is yes, did Canada breach that duty?
5. Did Canada have a duty to ensure that the former Lejac Industrial School was used only for school purposes?
6. If the answer to (5) is yes, did Canada breach that duty?
7. If the answer to (5) is no, did Canada have a duty to ensure that compensation was paid to the Band when the school was used for other than school purposes?
8. Did Canada have a duty to protect the reserve land from any detrimental affects caused by the construction and use of a sewage lagoon on land set aside for the school?
9. If the answer to (8) is yes, did Canada breach that duty?
10. Did Canada have a duty to ensure the Band received compensation for timber cut for school and school farms?

PART IV
ANALYSIS

The history of Indian residential schools in Canada dates back to the early 1900's. The Lejac Indian Residential School, originally named the Fraser Lake Industrial School, was one of the earliest residential schools in British Columbia.

This inquiry focuses on the taking and use of reserve lands for an Indian residential school. The panel is of the view that the 10 issues agreed upon for inquiry can be collapsed into two issues, one of which can be viewed as an alternative:

1. Was the use of IR 4 for a residential school lawful in 1921?

The panel notes that the first two issues in the Statement of Issues are covered by this general issue. In other words, this issue encompasses the issues of consent and compensation at the time the lands were given up in 1921.

2. In the alternative, if the use of IR 4 was lawful, then should the Nadleh Whut'en Band receive compensation for the use of the land and resources for school purposes?

Issues 3-10 are covered by this second issue. The panel notes that the First Nation framed issues 3-10 in the further alternative in its written submissions⁸. As such, if the panel concludes that the use of IR 4 was not lawful in 1921, then compensation will follow, and issues 3 to 10 need not be dealt with.

Was the use of IR 4 for a residential school lawful in 1921?

Issue 1 **Was the Band Council Resolution of April 12, 1921 ("1921 BCR") lawful and sufficient under the *Indian Act*, R.S.C. 1906 as amended, to allow Canada to take and use approximately 260 acres of IR No. 4 (the "Lands") for the purpose of the Lejac School?**

Issue 2 **If the 1921 BCR was lawful and sufficient under the *Indian Act*, did Canada breach its fiduciary obligations arising at common law and/or under the *Constitution Act, 1867* and/or under the *Terms of Union, 1871* by:**

⁸ Written Submission on Behalf of the Nadleh Whut'en First Nation, February 11, 2008, at para. 186.

- (a) **failing to obtain the consent of Band membership and/or the Governor in Council prior to taking and using the Lands for the purpose of the Lejac School**
- (b) **failing to compensate the Band for the use of the Lands between 1921 - 1976?**

Positions of the Parties

In its written submission, the First Nation argued that IR 4 was not an actual reserve at law, but rather, a *de facto* reserve. It submits that as a result, IR 4 was administered as a reserve at law based on the *Indian Act*. Because IR 4 was set aside as a reserve, occupied by the Band, and was treated as a reserve at law, the Band argues that it had a cognizable interest in the IR 4⁹. As the Band had a cognizable interest in IR 4, the Band further argues that Canada owes basic fiduciary duties with respect to dealings with IR 4 and that Canada breached these duties by failing to properly oversee, supervise and approve the transaction that resulted in the establishment of Lejac School.

More specifically, the Band argues that the 1921 BCR did not properly authorize the establishment of the school. It alleges that the BCR is not indicative of the First Nation's intentions as the First Nation had nothing to do with the location of the school and completely relied on the Indian Agent to advise and guide them¹⁰. It submits that the school was a third-party use of the reserve which required the approval of the Crown, of which there is no record. Alternatively, the Band states that if the taking of the lands was lawful in 1921, then after 1938, the taking was unlawful because IR 4 then became a reserve at law and a taking of lands under the *Indian Act* required the approval of the Crown, of which there is no record. Following 1938, once IR 4 became a lawful reserve, it further argues that Canada was responsible to protect and preserve the Band's interest in IR 4. At this point, it submits that Canada's fiduciary obligations included a duty to place the Band's interests above all others; to ensure that the Band was fairly compensated for lands and timber taken for school purposes; to compensate for any negative impacts of the school on the remainder of IR 4; to act in good faith; and, to avoid any appearance of sharp dealings. The First Nation also submits that the Crown has breached its duty of loyalty and the honour of the Crown.

⁹ Written Submissions on behalf of the Nadleh Whut'en First Nation, February 11, 2008 at para. 196.

¹⁰ Written Submissions on behalf of the Nadleh Whut'en First Nation, February 11, 2008 at para. 7.

In response, Canada argues that the *Indian Act* had no application to these lands prior to 1938, and the 1921 BCR was sufficient to authorize use of the lands as a school¹¹. Canada asserts that a formal surrender of the lands for school purposes was not required, arguing that the school was built to fulfill a term of the Fort Fraser Barricade Agreement, and the First Nation wanted a school to be built. Because the Band requested the school, Canada argues that there can be no wrongful taking of the land. It submits that the Band's decision must be respected and that, as a result, the 1921 BCR was sufficient authorization.

Because the reserves had been allotted, surveyed, approved, and occupied, and being administered by the Crown, Canada acknowledges that a cognizable interest existed and that IR 4 had some administrative protection. However, while Canada may have had pre-reserve creation fiduciary obligations, these obligations are limited to loyalty, good faith, etc., and Canada submits that these duties were fulfilled.

Canada also argues that the *Indian Act* did not apply to IR 4 until 1938. In 1938, s. 9 of the Act permitted the establishment of schools on reserve lands for the children of the reserve or any reserve in the district¹². As a result, it asserts that Canada did not have a statutory duty to ensure that children from the First Nation were enrolled at the Lejac School¹³.

On the issue of compensation, the Band states that this claim is not about schools and education; the claim is about the use of 260 acres of reserve lands by third parties without proper compensation to the Nadleh Whut'en Indian Band¹⁴. The key point of this claim, it suggests, is that the Crown permitted third-party use of reserve land for free.

In their legal submissions to the panel, both the First Nation and Canada agreed that Issues 3 -10 were peripheral to the central tenet of the claim. The Band's counsel submitted that this claim "is not about schools and not about education. This claim is about the use of reserve lands ... It's

¹¹ Written Submissions on behalf of the Government of Canada, March 17, 2008 at para. 5.

¹² Written Submissions on behalf of the Government of Canada, March 17, 2008 at para. 134.

¹³ Written Submissions on behalf of the Government of Canada, March 17, 2008 at para. 136.

¹⁴ Written Submissions on behalf of the Nadleh Whut'en First Nation, February 11, 2008 at para. 21.

about the use of lands without compensation.”¹⁵ Canada’s counsel agreed that, “it was clear that really all the peripheral issues . . . are all really tied to the use of the reserve land and whether it was properly authorized and whether Canada breached some duty in allowing that to happen ...what we’re talking about here is the use of part of IR 4 for the school without compensation to the First Nation.”¹⁶

Because of this consensus, the panel has not fully outlined the position of the parties on issues 3-10, instead taking the approach we have outlined, namely, to address the issues of consent and compensation, since by doing so, the other issues will also be resolved for the most part.

Panel’s reasons

Both the First Nation and Canada agree on the background to the fiduciary relationship between the Crown and First Nations. This fiduciary relationship was first acknowledged by the Supreme Court of Canada in *Guerin v. The Queen*.¹⁷ In *Guerin*, the Musqueam Band surrendered reserve land for lease to a golf club; however, the Band later learned that the terms of the lease obtained by the Crown were significantly different from those the Band had agreed to and were less favourable. The Court unanimously found that, by unilaterally changing the terms of a lease originally agreed to by the Band, Canada had breached its duty to the Band. Dickson J, with the concurrence of Beetz, Chouinard, and Lamer JJ, stated the following regarding fiduciary principles:

In my view, the nature of Indian title and the framework of the statutory scheme established for disposing of Indian land places upon the Crown an equitable obligation, enforceable by the courts, to deal with the land for the benefit of the Indians. This obligation does not amount to a trust in the private law sense. It is rather a fiduciary duty. If, however, the Crown breaches this fiduciary duty it will be liable to the Indians in the same way and to the same extent as if such a trust were in effect.

¹⁵ Oral Submissions, Counsel for the Nadleh Whut’en First Nation, Transcripts of the Oral Hearings, Vancouver, B.C., April 10, 2008, pp. 5-6.

¹⁶ Oral Submissions, Counsel for the Government of Canada, Transcripts of the Oral Hearings, Vancouver, B.C., April 10, 2008, p. 71.

¹⁷ *Guerin v. The Queen*, [1984] 2 SCR 335.

The fiduciary relationship between the Crown and the Indians has its roots in the concept of aboriginal, native or Indian title. The fact that Indian bands have a certain interest in lands does not, however, in itself give rise to a fiduciary relationship between the Indians and the Crown. The conclusion that the Crown is a fiduciary depends upon the further proposition that the Indian interest in the land is inalienable except upon surrender to the Crown.¹⁸

In identifying a fiduciary relationship, Dickson J quoted Professor E.J. Weinrib's statement that "the hallmark of a fiduciary relation is that the relative legal positions are such that one party is at the mercy of the other's discretion."¹⁹ This description has been supported in other Supreme Court of Canada judgments²⁰.

Although the courts have recognized that a fiduciary relationship exists between the Crown and Aboriginal people, the courts have also noted that not all aspects of the fiduciary relationship will give rise to fiduciary obligations.²¹ To date, the Supreme Court of Canada has recognized certain fiduciary obligations on the Crown which arise prior to a surrender of reserve lands,²² following a surrender of reserve lands,²³ before the expropriation of reserve lands,²⁴ or, as a result of the regulation or infringement of a constitutionally protected Aboriginal or treaty right.²⁵ More recently,

¹⁸ *Guerin v. The Queen*, [1984] 2 SCR 335 at 376.

¹⁹ *Guerin v. The Queen*, [1984] 2 SCR 335 at 384.

²⁰ *Lac Minerals v. International Corona Resources Ltd.*, [1989] 2 SCR 574: dependency or vulnerability as an essential element indicating a fiduciary relationship. *Frame v. Smith*, [1987] 2 SCR 99: exercise of discretion or power; unilateral exercise of power; and vulnerability of the beneficiary. The beneficiary is subject to discretionary uses of power as another element characterizing a fiduciary relationship. *Hodgkinson v. Simms*, [1994] 3 SCR 377: reasonable expectations of one party expecting another party to act in their best interests may also characterize a fiduciary relationship.

²¹ *Quebec (A.G.) v. Canada (National Energy Board)*, [1994] 1 SCR 159 at 183; *M. (K) v. M. (H)* (1992) 96 DLR (4th) 289 at 326 (SCC).

²² *Blueberry River Indian Band v. Canada* (1995), 130 DLR (4th) 193 (SCC). In a concurring judgment, McLachlin J observed that, prior to consenting to a surrender proposed by an Indian Band, the Crown has a fiduciary duty limited to preventing exploitative bargains (at 208).

²³ *Guerin v. The Queen*, [1984] 2 SCR 335.

²⁴ *Osoyoos Indian Band v. Oliver (Town)*, [2001] 3 SCR 746.

²⁵ *R. v. Sparrow*, [1990] 1 SCR 1075.

the Supreme Court of Canada has recognized the existence of a fiduciary duty in relation to reserve creation in *Ross River*, and more importantly, in *Wewaykum Indian Band v. Canada*.²⁶ *Wewaykum* is the Supreme Court of Canada's most recent statement regarding the Crown/Aboriginal fiduciary relationship and when the fiduciary relationship gives rise to a corresponding fiduciary duty.

In *Wewaykum*, which dealt with the setting aside of reserve lands in British Columbia before 1938, the Supreme Court said the following:

1. The content of the Crown's fiduciary duty towards aboriginal peoples varies with the nature and importance of the interest sought to be protected. It does not provide a general indemnity.
2. Prior to reserve creation, the Crown exercises a public law function under the *Indian Act* – which is subject to supervision by the courts exercising public law remedies. At that stage a fiduciary relationship may also arise but, in that respect, the Crown's duty is limited to the basic obligations of loyalty, good faith in the discharge of its mandate, providing full disclosure appropriate to the subject matter, *and acting with ordinary prudence with a view to the best interest of the aboriginal beneficiaries*.
3. *Once a reserve is created, the content of the Crown's fiduciary duty expands to include the protection and preservation of the band's quasi-proprietary interest in the reserve from exploitation.*²⁷

Essentially, the Supreme Court has confirmed that the Crown/Aboriginal relationship is a fiduciary relationship, but that “not all obligations existing between the parties to a fiduciary relationship are fiduciary in nature.”²⁸ The Court also acknowledged that “[t]he fiduciary duty imposed on the Crown does not exist at large but in relation to specific Indian interests.”²⁹ In *Wewaykum*, this specific Indian interest was identified as land.

²⁶ *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245.

²⁷ *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245 at 289–90 [emphasis added].

²⁸ *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245 at 288.

²⁹ *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245 at 286.

An Indian band's interest in specific lands that are subject to the reserve-creation process, where the Crown acts as the exclusive intermediary with the province, also triggers a fiduciary duty. The Court said the following with respect to the content of a pre-reserve-creation fiduciary duty:

Here ... the nature and importance of the appellant bands' interest in these lands prior to 1938, and the Crown's intervention as the exclusive intermediary to deal with others (including the province) on their behalf, imposed on the Crown a fiduciary duty to act with respect to the interest of the aboriginal peoples with loyalty, good faith, full disclosure appropriate to the subject matter and with "ordinary" diligence in what it reasonably regarded as the best interest of the beneficiaries.³⁰

The Court advised that consideration must be given to the context of the time at reserve creation and the likelihood of the Crown facing conflicting demands. Moreover, it found that the Crown is not an ordinary fiduciary and must balance the public interest with the Aboriginal interest:

When exercising ordinary government powers in matters involving disputes between Indians and non-Indians, the Crown was (and is) obliged to have regard to the interest of all affected parties, not just the Indian interest. The Crown can be no ordinary fiduciary; it wears many hats and represents many interests, some of which cannot help but be conflicting: *Samson Indian Nation and Band v. Canada*, [1995] 2 F.C. 762 (C.A.).³¹

In this inquiry, the parties agree that at the time the school was created, IR 4 was not a reserve at law. Instead, in applying principles from *Wewaykum*, the parties agree that the First Nation had a cognizable interest in IR 4, such that the lands had been set aside for the Band, and were being occupied and used by the Band. As a result of this cognizable interest, it is clear that Canada and the First Nation had a fiduciary relationship in the pre-reserve-creation era that gives rise to fiduciary duties limited to loyalty, good faith, full disclosure appropriate to the subject matter, and ordinary prudence, exercised with a view to the best interests of the Indians.

³⁰ *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245 at 294.

³¹ *Wewaykum Indian Band v. Canada*, [2002] 4 SCR 245 at 293.

In determining the extent of these duties, even though the Indian Act did not apply, there are relevant *Indian Act* sections relating to residential schools that are instructive. For example, section 9 of the 1906 *Indian Act* states:

9(1) The Governor in Council may establish:

- (a) day schools in any Indian reserve for the children of such reserve;
- (b) industrial or boarding schools for the Indian Children of any reserve or reserves or any district or territory designated by the Superintendent General.³²

In addition, s. 194(2)(f) of the *Indian Act*, in reference to a band council, states:

2. The council may also make by-laws, rules and regulations, approved and confirmed by the Superintendent General, regulating all or any of the following subjects and purposes, that is to say: -

- (f) The construction and repairs of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years³³;

These sections permit schools to be established on reserve, but do not mention the use or taking of reserve lands for school purposes. However, s. 11 of the 1906 *Indian Act* states:

11. The Governor in Council may take the land of an Indian held under location ticket or otherwise, for school purposes, *upon payment to such Indian of the compensation agreed upon*, or in case of disagreement such compensation a may be determined in such manner as the Superintendent General may direct³⁴.

This section specifically identifies that where there is a location ticket, or where land is otherwise held by an Indian, compensation is required if this land is taken for school purposes. The panel notes that the lands were not held under a location ticket on the facts in this inquiry, and that prior to 1938,

³² Section 9, *Indian Act*, RSC, 1906, c. 43, s. 1 as amended by S.C. 1919-20, c. 50, s. 1

³³ Section 194(2)(f), *Indian Act*, 1906, s. 43, s. 1 as amended by S.C. 1926-27, c. 32, s. 7.

³⁴ Section 11, *Indian Act*, 1906, s. 43, s. 1 as amended by S.C. 1913, c. 35, s. 2.

the *Indian Act* did not apply to IR 4; however, the principle of compensation for lands taken for such purposes is clearly set out in the legislation.

The question facing the panel is whether or not the pre-reserve-creation fiduciary duties required by law were fulfilled in 1921 with respect to the taking of 260 acres of IR 4 for the Lejac Indian residential school. In other words, the panel must ask itself what the Crown should have done in 1921 to fulfil the basic fiduciary duties required by law with respect to the establishment of the school. The panel's approach to this question, as outlined earlier, deals with consent and compensation.

In examining whether or not the First Nation provided appropriate consent to the use of lands set aside as reserves for a school, the panel is guided by Exhibit 3c, a report entitled *B.C. Residential School Lands: Draft Historical Report*³⁵ prepared by Public History Inc. during the course of this inquiry. This report covers the establishment of 20 residential schools in BC, eight of which were established on lands set aside as Indian reserves. These schools include Kamloops Residential School³⁶, Kitamaat Residential School³⁷, Kuper Island Residential School³⁸, Lytton Residential School³⁹, Matlaakatla Residential School⁴⁰, Port Simpson Boys Residential School,⁴¹ and the Sechelt School⁴². The circumstances of how each of these schools were created is unique in each case. Only

³⁵ *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c).

³⁶ *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 30).

³⁷ *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 36).

³⁸ *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 43).

³⁹ *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 51).

⁴⁰ *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 60).

⁴¹ *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 61).

⁴² *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 65).

one school was established on lands that were clearly surrendered⁴³. Otherwise, there was no consistent method in taking lands set aside as reserves for residential schools.

For further guidance, the panel examined a memorandum written by J.D. McLean, then Assistant Deputy Superintendent General and Secretary of Indian Affairs, dated November 25, 1910⁴⁴. The memorandum was the result of a meeting to re-negotiate the funding arrangement between the federal government and the churches in operating schools.

Originally, when formal Indian education was first initiated in the 1880's, the department preferred industrial schools over boarding schools.⁴⁵ However, industrial schools were located far from First Nation communities, and to compensate for the distance, boarding schools were built.⁴⁶ A new funding arrangement was concluded with an increasing number of boarding schools.⁴⁷ The memorandum sheds some light on the operation of residential schools, but again, there is no reference to the use of lands set aside for reserves for such schools. However, it is clear to the panel from this document that the churches operated the schools and the federal government provided the funding.

There was no clear articulation of the policy regarding the use of reserve lands for school purposes until 1954, when the department responded to the OMI's query regarding title to the lands on reserve. It wrote:

⁴³ Kamloops Residential School, *B.C. Residential School Lands: Draft Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 21, 2003 (ICC Exhibit 3c, p. 30).

⁴⁴ J.D. McLean, Assistant Deputy Superintendent General and Secretary, Department of Indian Affairs, to representatives of various religious bodies, November 25, 1910, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 109).

⁴⁵ J.D. McLean, Assistant Deputy Superintendent General and Secretary, Department of Indian Affairs, to representatives of various religious bodies, November 25, 1910, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 109).

⁴⁶ J.D. McLean, Assistant Deputy Superintendent General and Secretary, Department of Indian Affairs, to representatives of various religious bodies, November 25, 1910, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 109).

⁴⁷ J.D. McLean, Assistant Deputy Superintendent General and Secretary, Department of Indian Affairs, to representatives of various religious bodies, November 25, 1910, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, pp. 109-110).

The Department has consistently held the view that it is unwise to alienate small parcels of Reserve land lying within the confines of Indian Reserves. If this is done, islands are created within the Reserve over which we have no control and there have been instances in the past where title to such islands, if I may call them that, has passed from the original grantee to persons whose presence within the boundaries of the Reserve was most prejudicial to our administration and the welfare of the Indians.

...

It is because of these factors that over the years the practice has grown up of simply asking Band Councils to reserve for the use of churches designated areas, on the understanding that the said area may be used by the church in question for so long as it is required for church purposes. In practice, we receive Council resolutions to that effect and simply approve the resolution and write a letter to the Superintendent in question advising him of such approval.

While that is the practice today and was undoubtedly carried out in some cases in the past, we know that there are many instances where there is no record of anyone having approved the occupation of Reserve lands for church purposes. Presumably the Indians consented to such use in these cases, but there is no record of such consent. We have no up-to-date record of all church sites on Reserves in Canada and if you wish to supply a list by Indian Reserves, we could check our records in an endeavour to ascertain the basis of the occupation. We would estimate that in some few cases outright title may have been granted; in others there may have been consent by a letter, but that in a majority of the cases there would be no record of formal approval of the occupation.⁴⁸

From this document, it seems clear that surrenders of parts of a reserve for the use of schools within the reserve were not usually obtained and were not the preferred means of allowing churches to use lands set aside as reserves. Instead, the department wished to retain control and administration of the entire reserve, for the benefit of the Indians. More importantly, while the department maintained control and administration of the reserve lands, it acknowledged that in some cases, proper consent for the use of the reserve by a church may not have been obtained, and that if consent had been given, there was often no formal record of that consent.

In this inquiry, the First Nation argues that the BCR was not sufficient authority to set aside 260 acres of lands that had been set aside for a reserve, and that further formal approval was required. Canada argues that the First Nation had requested a school, and consented to the use of the

⁴⁸ H.M. Jones, Director, Indian Affairs Branch, Department of Citizenship and Immigration, to Rev. G. Laviolette, General Secretary, Indian and Eskimo Welfare Commission, OMI, University of Ottawa, Ontario, February 10, 1954, OMI Deschalets Archives HR6111.C73R5 (ICC Exhibit 1a, pp. 1424-25) [emphasis added].

lands for a school. As a result, Canada argues that the BCR was sufficient authority and no further formal approval was required.

With respect to the issue of consent, the panel notes that until 1938, the *Indian Act* did not apply to the reserve, according to *Wewaykum*. Instead, Canada owed pre-reserve-creation fiduciary duties to the Band in the form of loyalty, good faith in the discharge of its mandate, full disclosure appropriate to the subject matter, and ordinary prudence with a view to the best interests of the Band.

As IR 4 had been set aside for the Band, the Band was occupying IR 4, and IR 4 was confirmed as a reserve in 1938, the panel concludes, as it did in the ICC's *Lower Similkameen Report*⁴⁹, that IR 4 was at its highest pre-reserve-creation state. At the very least, the Crown had to oversee all of the Band's decisions and manage the Band's affairs with ordinary prudence and due diligence during that period of time. There is no evidence before us to indicate that the government took any steps to review or approve the Band's decision to set aside lands for school purposes. Instead, the only formal approval before us is an Order in Council dated July 3, 1920 authorizing the establishment of the school some ten months before the Band's BCR.

The fact that there was a BCR evidencing that the Band's agreement to set aside lands for a school on reserve lands is not, in and of itself, sufficient to establish informed consent or to remove the Crown's fiduciary obligations of ordinary prudence and good faith.

Given its fiduciary duties, we find that the Crown had to manage the Band's affairs as it would have managed its own. It was Canada that entered into the funding agreement with the church, not the Band, therefore the arrangements entered into by Canada had to take into consideration such matters as compensation, as this would be ordinarily prudent to do. The Crown, in our view, had an obligation to ensure that reserve lands that were to be used by third parties for an indefinite period of time for school purposes, particularly where the students attending might not be from the reserve itself, would be the subject of reasonable compensation. Canada's failure to do so was a breach of the ordinary prudence required of it as a fiduciary before 1938. Its failure to do after 1938 was a breach of its fiduciary obligations to protect and preserve the Band's quasi-proprietary interest in the reserve from exploitation, as outlined in *Wewaykum*.

⁴⁹ ICC, *Lower Similkameen Indian Band: Vancouver, Victoria and Eastern Railway Right of Way Inquiry* (Ottawa, February 2008) at p. 32

Furthermore, according to *Wewaykum*, prior to 1938, Canada had a fiduciary obligation to provide “full disclosure appropriate to the subject matter.” It was thus required to disclose relevant information to the First Nation before seeking its consent by BCR to the establishment of the school on lands set aside as a reserve. The First Nation was entitled to be informed, before it gave its agreement, if Canada did not intend to compensate the First Nation for the use of its lands or timber and if students from other First Nations would be attending the school. Whether the school would be adequate for the Nadleh Whut'en pupils was another relevant consideration that should have been discussed before consent to set aside lands for a school was sought from the First Nation. However, we have no evidence to indicate that there were any discussions with the Band concerning these matters. Thus, it does not appear that the Band received full disclosure of relevant information, but whether it did or not, there is little doubt that Canada failed to ensure that reasonable compensation would be paid to the Band for the use of lands to which the Band was entitled.

On this latter point, the panel notes that this requirement is found at common law as well. As we stated in our *Lower Similkameen Report*:

While not raised by the parties, the Crown has a common law duty to compensate not only in cases of taking of title but also in cases where “enjoyment of possession” is eliminated or depreciated by actions of the Crown:

[T]here would be the general principle, accepted by the legislature and scrupulously defended by the courts, that the title to property or the enjoyment of its possession was not to be compulsorily acquired from a subject unless full compensation was afforded in its place. Acquisition of title or possession was “taking.”⁵⁰

The Crown, and not the Lower Similkameen Band or its members, had title to the right of way taken, so that taking of title is not at issue. However, the Band, or its members, did have the right to “enjoyment of its possession,” which was taken from them. This loss provides another basis on which compensation was due. The compensation is to be “full.”⁵¹

⁵⁰ *Manitoba Fisheries Ltd. v. Canada*, [1979] 1 SCR 101 at 110, Ritchie J, quoting Lord Radcliffe in *Belfast Corporation v. O.D. Cars Ltd.*, 1960 AC 49 at 523 (HL(NI)).

⁵¹ ICC, *Lower Similkameen Indian Band: Vancouver, Victoria and Eastern Railway Right of Way Inquiry* (Ottawa, February 2008) at p. 28.

The panel notes that there is a common law duty to provide compensation for lands taken. This common law duty finds its way into statutes, including the *Indian Act*. Section 11 of the *Indian Act*, which requires compensation to be paid to the holder of a location ticket for lands taken, embodies this principle.

In this inquiry, we find that the Band's full use of IR 4 was affected. The panel finds that the eastern portion of IR4, including the use of the shoreline for a fishing station, together with the use of the soil for agriculture, the use of the timber, and the enjoyment and possession of the land, were taken from the Band without Canada negotiating any compensation in return.

The panel does not accept the premise put forward by Canada that just because the Nadleh Whut'en Band signed the Fort Fraser Barricade Agreement and had expressed its desire for a school to educate their children, the Crown was relieved of its responsibility to ensure compensation was paid for the loss of use of the land taken in IR 4. Other bands wanted their children educated and other bands signed the same Agreement. These bands also benefitted from the Lejac school but they did not have to give up their reserve land to have their children educated.

In addition, the panel believes it is unlikely that the Crown, if it were in the same position as the Nadleh Whut'en Band, would have permitted the long-term use of a large amount of land without any compensation being paid. This failure to ensure compensation was paid to the Band is a breach of the Crown's basic pre-reserve-creation fiduciary duties and the ordinary prudence expected of it in its dealings with the Band's reserve lands pre-1938. After 1938, its failure to do so was exploitive, particularly when children from other Bands, and not only those from Nadleh Whut'en were attending the Lejac School.

REMAINING ISSUES

Issue 3 **Did Canada, due to the fact that the school was located on reserve land set aside for that purpose, have a duty to ensure that all school-aged children of the Nadleh Whut'en First Nation (formerly Fraser Lake Indian Band) had the opportunity to be enrolled in the former Lejac Industrial school?**

Issue 4 **If the answer to (3) is yes, did Canada breach that duty?**

Position of the Parties

The Band argues that Canada had a duty to ensure that school-aged children of the Band had access to the Lejac School. It argues that failing to do so was a breach of Canada's fiduciary duties of ordinary diligence, full disclosure, good faith, and loyalty to the Band.⁵² Canada's response is that as there was no reserve in existence prior to 1938, no duty arose, and that after 1938, section 9 of the *Indian Act* "allowed for the establishment of schools on reserve for the Indian children of any reserve or reserves."⁵³ Canada further submits that there is only one document that refers to overcrowding, and that without corroborative evidence, that document is insufficient to establish a breach of fiduciary obligation.⁵⁴

Panel's Reasons

We note that the data concerning enrolment at the Lejac School is incomplete, and that information from many years of its operation relate to the Stuart Agency as a whole.

There are references in the historical record to overcrowding in the school in 1954. In a letter from W.S. Arneil, the Indian Commissioner for British Columbia to the Indian Affairs Branch in May, 1954, for example, he comments that the construction of three additional classrooms at Lejac would relieve the overcrowding and allow for the discharge of 25 residential school pupils, thus providing beds "for this number of children who are not now attending any school."⁵⁵ A.V. Parminter, Inspector of Indian Schools for the province responded by noting that the Lejac school, which was equipped to accommodate 150 children, had been housing over 180. He confirmed the Department's plans to erect a three classroom building at Lejac in order to alleviate that overcrowding.⁵⁶

⁵² Written Submissions on behalf of the Nadleh Whut'en First Nation, February 11, 2008 at paras. 231-232.

⁵³ Written Submissions on behalf of the Government of Canada, March 17, 2008 at paras. 133-134.

⁵⁴ Written Submissions on behalf of the Government of Canada, March 17, 2008 at par. 132.

⁵⁵ W.S. Arneil, Indian Commissioner for B.C., to Indian Affairs, May 19, 1954 (ICC Exhibit 1a, pp. 1429-1430)

⁵⁶ A.V. Parminter, Inspector of Indian Schools for B.C., to W.S. Arneil, June 17, 1954 (ICC Exhibit 1a, p. 1431-1435)

Once the day school was opened, very few Nadleh Whut'en students enrolled as residential school students. By 1957, 30 were attending the day school. In the circumstances, we cannot say that Canada did not live up to its obligations. We have insufficient evidence on the record to conclude that Canada refused or denied admission to the Lejac School, or to find that it failed to take steps to ensure that Nadleh Whut'en students had access to the Lejac School.

- Issue 5** **Did Canada have a duty to ensure that the former Lejac Industrial School was used only for school purposes?**
- Issue 6** **If the answer to (5) is yes, did Canada breach that duty?**
- Issue 7** **If the answer to (5) is no, did Canada have a duty to ensure that compensation was paid to the Band when the school was used for other than school purposes?**
- Issue 8** **Did Canada have a duty to protect the reserve land from any detrimental effects caused by the construction and use of a sewage lagoon on land set aside for the school?**
- Issue 9** **If the answer to (8) is yes, did Canada breach that duty?**
- Issue 10** **Did Canada have a duty to ensure the Band received compensation for timber cut for school and school farms?**

Issues 5, 6, 7, and 10, have been implicitly addressed in our findings on the issues of consent and compensation. We have found that the consent provided by the Band did not remove the Crown's fiduciary obligations, and that the First Nation was entitled to be compensated for the use of its lands for school purposes.

With respect to Issues 8 and 9, the panel is of the view that if adequate compensation had been paid to the First Nation for the use of its lands, these issues would not have been put forward. Also, with respect to Issue 10, our conclusion to the effect that the Nadleh Whut'en First Nation lost the full use and enjoyment of the eastern portion of IR 4 (approximately 260 acres) between 1921 and 1976, applies to the use of the timber from those lands as well.

PART V

CONCLUSIONS AND RECOMMENDATIONS

The panel concludes that the Crown owed fiduciary duties to the Nadleh Whut'en First Nation to ensure that its lands and resources were managed properly and were in the First Nation's best interests. Before 1938, those duties were limited to basic obligations of loyalty, good faith, full disclosure, and acting with ordinary prudence with a view to the best interests of the Aboriginal beneficiaries. After 1938, once IR 4 was created, the Crown's fiduciary duty expanded to include the protection and preservation of the Band's quasi-proprietary interest in its reserve lands from exploitation. In our view, when it obtained a BCR from the First Nation agreeing to set aside 260 acres for school purposes, the Crown failed to provide the Nadleh Whut'en First Nation with full disclosure of how those lands would be used, and that the Band would not receive compensation for those uses. Its failure to ensure that the First Nation was fairly compensated for the use of its lands by third parties was not in the best interests of the First Nation, and does not reflect ordinary prudence in the management of such affairs.

The Band Council Resolution of April 12, 1921 is not sufficient to remove the Crown's obligations in this regard. There is nothing in the BCR to suggest that the Band consented to the use of its lands without compensation. The Crown cannot rely on the BCR as evidence of the Band's consent to the use of its lands without compensation when there is no evidence that the Crown had disclosed to the First Nation that it would not be compensated for its land and resources, or that the school constructed on its reserve would be used by students from other bands.

Furthermore, Canada had an obligation, as part of its fiduciary duties of "ordinary prudence," to ensure that the Band would be fairly compensated for the use of its lands by third parties.

The Crown had both a fiduciary and common law duty to ensure that the First Nation was not deprived of the use of its lands without compensation. With the transfer of title to IR 4 by British Columbia to Canada in 1938, the *Indian Act* then applied to the lands in question and the Crown's fiduciary duty required it to use diligence to protect the Band's interests in its lands from exploitation. Even with this change, Canada did nothing to ensure that the First Nation was paid compensation for the use of its lands, thus depriving the First Nation of the compensation to which it was entitled.

On the evidence presented to the panel, we conclude that the Nadleh Whut'en First Nation lost the full use and enjoyment of the eastern portion of IR 4 (260 acres) from the spring of 1921 until the fall of 1976, when the lands reverted to the First Nation. The Crown, having taken this land for school purposes, and having entered into funding agreements with the OMI, had a duty to fully compensate the Band for its loss. Its failure to do so, for the reasons outlined, breached the Crown's fiduciary duties.

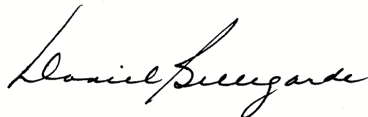
Regarding issues 3 and 4, we have insufficient evidence to show that Canada denied or refused admission to Nadleh Whut'en children, or even why Nadleh Whut'en students did not attend the school. Therefore, we cannot conclude that Canada failed in its duties.

As for the issues 5-10, our findings with respect to consent and compensation address them for the reasons we have outlined. Our conclusions apply equally to the timber cut on reserve lands for school purposes as to the use of IR lands for the school itself.

The panel therefore recommends:

That under Canada's Specific Claims Policy, Canada negotiate with the Nadleh Whut'en First Nation for compensation regarding the loss of the full use and enjoyment of the eastern portion of Indian Reserve 4, lands that were set aside for school purposes.

FOR THE INDIAN CLAIMS COMMISSION



Daniel J. Bellegarde (Chair)
Commissioner



Alan C. Holman
Commissioner

Dated this 16th day of December, 2008.

APPENDIX A
HISTORICAL BACKGROUND

NADLEH WHUT'EN INDIAN BAND
LEJAC SCHOOL INQUIRY

Indian Claims Commission

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INTRODUCTION

The Nadleh Whut'en Indian Band⁵⁷ is located in the northern interior of British Columbia. The Band has been identified as being part of the Carrier Group of First Nations and was included in the Hoquelget Division of the Babine and Skeena River Agency⁵⁸ until 1910.

On August 31, 1892, Indian Reserve Commissioner Peter O'Reilly set aside Indian Reserves, (hereafter abbreviated as IR), 1 - 4 for the Band.⁵⁹ The focus of this inquiry involves IR 4, also known as the Seaspunkut Reserve, located on the south shore of Fraser Lake. When first surveyed by F. A. Devereux⁶⁰ in July and August 1894, IR 4 contained 470 acres⁶¹. The Lejac Indian Residential School⁶² was located on Seaspunkut IR 4⁶³ and opened in 1922.

At the community session, Elder George George Sr. explained that “the word Nadleh, in our language, ... means, ‘comes back every year’, referring to the salmon.”⁶⁴ Elder George Sr. also stated “[b]efore the school was built, IR4 ... was a fishing town, where people used to have fishing

⁵⁷ The Nadleh Whut'en Indian Band was known as the Fort Fraser Band, Fraser's Lake Band or the Fraser Lake Band until 1990.

⁵⁸ R. E. Loring, Indian Agent, Babine and Upper Skeena Agency, Hazelton, BC to Superintendent General of Indian Affairs, Ottawa, July 11, 1898, Canada, *Annual Report of the Department of Indian Affairs for the year ended 30th June 1898*, Queen's Printer, 1899, 203-213 (ICC Exhibit 1a, pp. 37-47).

⁵⁹ Peter O'Reilly, Indian Reserve Commissioner to Deputy Superintendent General of Indian Affairs, February 23, 1893, no file reference available (ICC Exhibit 1a, p. 11-14).

⁶⁰ F.A. Devereux, Surveyor to Indian Reserve Commission, Department of Indian Affairs, Victoria, BC to P. O'Reilly, Indian Reserve Commissioner, November 17, 1894, Canada, *Annual Report of the Department of Indian Affairs for the year ended 30th June 1894*, Queen's Printer, 1895, 236 (ICC Exhibit 1a, p. 33); Plan BC 100 CLSR, “Plan of Fraser Lake Indian Reserves, Coast District, British Columbia”, surveyed by F.A. Devereux, PLS, in 1894, approved December 14, 1895 (ICC Exhibit 7a).

⁶¹ Plan BC 100 CLSR, “Plan of Fraser Lake Indian Reserves, Coast District, British Columbia”, surveyed by F.A. Devereux, PLS in 1894, approved December 14, 1895, (ICC Exhibit 7a).

⁶² Originally, the school was named the Fraser Lake Industrial School. Over time, the school gradually became known as the Fraser Lake Indian Residential School. In 1931, the school's name was officially changed to the Lejac Indian Residential School in honour of oblate missionary Father Lejac, well known to the area. Much later in the history of the school, its name was changed to the Lejac Student Residence when its function as a ‘residential school’, as defined by government policy, was terminated.

⁶³ Seaspunkut' is spelled a number of ways in the historical documents on record for this inquiry. Often, it is spelled ‘Seasbunkut’ or ‘Seaspunket’. For consistency, it will be spelled ‘Seaspunkut’ in this history, which is as it appears on the reserve general register of Indian and Northern Affairs Canada.

⁶⁴ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 17, G. George Sr.).

settlements down by the lake... . [T]here was a small settlement on the west end, with maybe two, three families living there”.⁶⁵ There is a small lake on Seaspunkut IR 4 where the band would fish for suckers.⁶⁶

In 1922, government policy regarding Indian education was to establish industrial schools, and provide annual funding on a per capita basis for the maintenance of the school, while the day-to-day management of the school was delegated to various religious organizations. At the Lejac Indian Residential School, the federal government provided annual funding to the Oblates of Mary Immaculate, (hereinafter referred to as ‘OMI’), who managed the daily operation of the school. The OMI was

expected to provide, from the per capita grant or church contributions, educational facilities for the pupils enrolled: provide for the clothing during the ten months ... of each year when they are in residence: provide food: provide for heating and lighting of the building: provide the salaries of the staff members required to operate the building and the farm. (If there is one in connection with the school).⁶⁷

The Lejac Indian Residential School operated a farm on the school grounds.

Nadleh Whut’en’s Requests for Industrial School

On December 15, 1905, Bishop A. Dontenwill, OMI, forwarded a petition addressed to the Superintendent General of Indian Affairs on behalf of “the Indians of Stuart’s Lake District” for a school.⁶⁸ Although the petition is missing from the historical document file,⁶⁹ Bishop Dontenwill’s

⁶⁵ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 12, G. George Sr.).

⁶⁶ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 19, G. George Sr.).

⁶⁷ Report of Special Joint Committee, Residential Schools, Indian Act, c. 1948, OMI Archive Deschatelets HR 6559.C73R42 (ICC Exhibit 1a, p. 1271).

⁶⁸ A. Dontenwill, Bishop, OMI, to Superintendent General of Indian Affairs, December 15, 1905, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 60). The documents refer to “Stuart’s Lake” and “Stuart Lake”. ‘Stuart Lake’ is the name of a band within the Stuart Lake Agency. Hereafter, ‘Stuart Lake’ will be used here unless where quoted.

⁶⁹ *Nadleh Whut’en First Nation Lejac School Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 30, 2004 (ICC Exhibit 3b, p. 89).

covering letter states that the petition was “for an Industrial school for their District. They request me to forward the same to you”.⁷⁰ Dontenwill supported the request, saying:

I have no hesitation to join them, for I am convinced that they are [in] real earnest and that they will make as good a use as any Indians have ever made, of the opportunities that shall be afforded them when a school shall be given them.

The only kind of school that shall be of real benefit to them is an industrial school. [Illegible] the distance at which they are from convenient shipping points, supplies will be so expensive that it would be useless to think of any other grant as sufficient except an Industrial School grant.⁷¹

A.W. Vowell, Indian Superintendent for BC, forwarded Bishop Dontenwill's letter and the petition to the Department of Indian Affairs on December 27, 1905. Vowell's correspondence suggests that there were already ongoing discussions with respect to establishing a school at Stuart Lake :

With reference to your letter of the 27th of last October and other correspondence on the subject of the condition of the Indians of Stuart's Lake and particularly in relation to the question of the advisability of establishing an Industrial school at Stuart's Lake for the children of the Indians there residing. I have the honor to forward herewith for the information of the Department a communication dated the 15th instant, recently received from His Lordship the Roman Catholic Bishop of New Westminster ...⁷²

Fishing Controversy

In the early 1900s, salmon resources in the Fraser and Skeena Rivers in central British Columbia were beginning to diminish.⁷³ As a result of depleting resources, conflict arose between settlers who

⁷⁰ A. Dontenwill, Bishop, OMI, to Superintendent General of Indian Affairs, December 15, 1905, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 60).

⁷¹ A. Dontenwill, Bishop, OMI, to Superintendent General of Indian Affairs, December 15, 1905, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 61).

⁷² A.W. Vowell, Indian Superintendent for BC, Indian Office British Columbia, to Secretary, Department of Indian Affairs, December 27, 1905, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 62).

⁷³ Barbara Lane, *Federal Recognition of Indian Fishing Rights in British Columbia, The Babine Barricade Agreement of 1906, The Fort Fraser Agreement of 1911, The Fort St. James Agreement of 1911, A Brief Summary*, Prepared for the Union of BC Chiefs, April 1978, p. 4 (ICC Exhibit 8a, p. 5).

operated a thriving canning industry and the First Nations who had been fishing the Fraser and Skeena Rivers for generations. Settlers opposed the First Nations' use of fishing weirs or barricades, alleging that the resulting large catches of fish were the cause of declining resources.⁷⁴

Official negotiations were held between the Minister of the Interior, the Department of Indian Affairs, the Department of Marine and Fisheries, Chief Big George and Chief William Tszak of the Babine area to settle the controversy.⁷⁵ In the fall of 1906, the Babine Proposition of 1906 was concluded; the First Nations agreed to retire their fishing barricades if the government provided “[o]ne industrial school in the district”, among other things.⁷⁶ At that time, the Nadleh Whut'en Indian Band was still part of the Babine and Upper Skeena Indian Agency. It is not clear from the documentary record of this inquiry, however, whether the Nadleh Whut'en Band was a party to the Babine Proposition.

A day school was eventually established at Stuart Lake. While R.E. Loring, Indian Agent for the Babine and Upper Skeena Agency, reported on this day school in 1907, 1908 and 1909, the documentary record does not indicate whether this school received federal funding.⁷⁷ There are also reports of “several very successful day schools in operation” in the Babine Agency.⁷⁸

⁷⁴ Barbara Lane, *Federal Recognition of Indian Fishing Rights in British Columbia, The Babine Barricade Agreement of 1906, The Fort Fraser Agreement of 1911, The Fort St. James Agreement of 1911, A Brief Summary*, Prepared for the Union of BC Chiefs, April 1978, p. 4 (ICC Exhibit 8a, p. 5).

⁷⁵ Barbara Lane, *Federal Recognition of Indian Fishing Rights in British Columbia, The Babine Barricade Agreement of 1906, The Fort Fraser Agreement of 1911, The Fort St. James Agreement of 1911, A Brief Summary*, Prepared for the Union of BC Chiefs, April 1978, pp. 8-9 (ICC Exhibit 8a, pp. 9-10).

⁷⁶ Babine Proposition attached to memo from unidentified author to Unidentified recipient, November 10, 1906, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 67) [underlining in original]. The proposition also stipulated that the government furnish the First Nations with netting for continued fishing practices, arable land, and certain specified farming implements.

⁷⁷ R.E. Loring, Indian Agent for the Babine and Upper Skeena Agency, to Frank Pedley, Deputy Superintendent of Indian Affairs, April 1, 1907, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1907*, King's Printer, 1907, 190-199 (ICC Exhibit 1a, pp. 69-78); R.C. Loring, Indian Agent for the Babine and Upper Skeena Agency, to Frank Pedley, Deputy Superintendent of Indian Affairs, April 4, 1908, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31st, 1908*, King's Printer, 1909, 200-209 (ICC Exhibit 1a, p. 79-88); R.C. Loring, Indian Agent for the Babine and Upper Skeena Agency, to Frank Pedley, Deputy Superintendent of Indian Affairs, March 31, 1909, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31st 1909*, King's Printer, 1909, 204-213 (ICC Exhibit 1a, p. 89-98).

⁷⁸ J.D. McLean, Secretary, to W.J. McAllan, Indian Agent, September 21, 1910, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 101).

Establishment of the Stuart Lake Agency and Indian Education: 1910

In 1910, the Stuart Lake Agency was created,⁷⁹ and responsibility for the Nadleh Whut'en Indian Band, (then called the Fraser Lake Band), was transferred to this agency. W. J. McAllan, the first Indian Agent for the Stuart Lake Agency, reported that the agency consisted:

...of an irregularly shaped territory of about 60,000 square miles in central British Columbia, lying north of the 53rd parallel and occupying almost the whole depression between the Rocky mountains and the coast range from the 53rd to the 57th parallel.

...

The total extent of the reserves within the agency is 23,391 acres. The total Indian population is 1,391.⁸⁰

In the same report, Indian Agent McAllan also reported on the Fraser Lake Band:

Tribe. - These Indians belong to the Carrier tribe.

Reserves. - The reserves of this band are four in number; three at the east end of Fraser lake and one on the south shore, seven miles from the east end.

The total acreage is 1,949. ...

Population. - This band numbers 67.⁸¹

McAllan identified the following bands as being part of the Stuart Lake Agency: Yucutce, Tatcee, Pintce, Grand Rapids, Tsislainli (Trembleur Lake), Stuart Lake, Stella, Francois Lake,

⁷⁹ W. J. McAllan, Indian Agent, Stuart Lake Agency, to Frank Pedley, Deputy Superintendent General of Indian Affairs, April 24, 1911, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1911*, King's Printer, 1911, 257-262 (ICC Exhibit 1a, pp. 130-135).

⁸⁰ W. J. McAllan, Indian Agent, Stuart Lake Agency, to Frank Pedley, Deputy Superintendent General of Indian Affairs, April 24, 1911, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1911*, King's Printer, 1911, 257 (ICC Exhibit 1a, p. 130).

⁸¹ W. J. McAllan, Indian Agent, Stuart Lake Agency, to Frank Pedley, Deputy Superintendent General of Indian Affairs, April 24, 1911, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1911*, King's Printer, 1911, 260 (ICC Exhibit 1a, p. 133).

Chislatta, Fraser Lake, Stoney Creek and Laketown, Blackwater, Fort George, McLeod's Lake, Fort Graham, Fort Connelly, Naanees (two bands).⁸²

On August 30, 1910, then acting Indian Agent McAllan reported to J.D. McLean, Secretary, Department of Indian Affairs, that First Nations within the newly established Stuart Lake Agency requested that the government establish a school in the agency. McAllan wrote:

In my visit[s] to the different Indian bands in this Agency I am met with a very urgent request by the chief & more intelligent Indians, that the question of the education of the children be taken up and I am asked to bring this matter to the notice of the Department and to point out that there is not one Indian School in the whole of this Agency.

The Indians urge the earnest consideration of this matter by the Department.⁸³

Secretary McLean replied that:

Some four or five years ago an application was made for the establishment of an industrial school at Stuart Lake. The Department is not, however, prepared to extend the industrial school system, but it is willing to establish day schools where it can be shown that there is a prospect of conducting them with success and where the services of efficient teachers can be had.⁸⁴

McLean instructed Acting Indian Agent McAllan

to report upon the conditions on any of the reserves in your Agency where there is a sufficient number of children to justify the establishment of a day school and where the Indians are so located that their children could take advantage of such a school if established. You should also report upon the probability of the Department being

⁸² W. J. McAllan, Indian Agent, Stuart Lake Agency, to Frank Pedley, Deputy Superintendent General of Indian Affairs, April 24, 1911, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1911*, King's Printer, 1911, 257-262 (ICC Exhibit 1a, p p. 130-135).

⁸³ W. J. McAllan, Acting Indian Agent, Stuart Lake Agency, to J.D. McLean, Secretary, Indian Department, Ottawa, August 30, 1910, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 99).

⁸⁴ J.D. McLean, Secretary, to W.J. McAllan, Acting Indian Agent, September 21, 1910, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 100).

able to secure competent teachers; not necessarily teachers with professional training, but those who would be interested in Indian work.⁸⁵

On October 28, 1910, Acting Indian Agent McAllan reported that the First Nations of the Stuart Lake Agency were “anxious” to have a day school established in the area.⁸⁶ However, McAllan noted that the First Nations’ “Spiritual advisor, Father Coccola is uncompromisingly opposed to Day Schools and how much he may use his influence to kill the project and how far he may be successful are problematical.”⁸⁷ McAllan concluded “that an Industrial boarding ... school would give good results, but the cost of establishing & maintaining same would be staggering. The Department’s decision not to extend this system is I take it final and probably wise.”⁸⁸

At this time, the government’s Indian schools policy was undergoing review. On November 25, 1910, J.D. McLean, then Assistant Deputy Superintendent General and Secretary of Indian Affairs, distributed “information relating to Indian Boarding schools and draft of contract which it is proposed that the authorities responsible for the maintenance and conduct of Indian Boarding schools shall become a party to in order to entitle such schools to Government aid.”⁸⁹ McLean explained:

When Indian education was taken up seriously in Western Canada in the eighties the policy of the Government was to establish Industrial Schools, erected at the cost of the Government, to be conducted under the auspices of the several religious bodies interested; the Government contributing to the maintenance of the schools a fixed sum per head. In pursuance of what was then believed to be sound policy these schools were generally speaking, located at points distant from Indian reserves and

⁸⁵ J.D. McLean, Secretary, to W.J. McAllan, Acting Indian Agent, September 21, 1910, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 100).

⁸⁶ W.J. McAllan, Acting Indian Agent to J.D. McLean, Secretary, Department of Indian Affairs, October 28, 1910, LAC, RG10, vol. 6443, file 881-1, part. 1 (ICC Exhibit 1a, p. 102).

⁸⁷ W.J. McAllan, Acting Indian Agent to J.D. McLean, Secretary, Department of Indian Affairs, October 28, 1910, LAC, RG10, vol. 6443, file 881-1, part. 1 (ICC Exhibit 1a, p. 103).

⁸⁸ W.J. McAllan, Acting Indian Agent to J.D. McLean, Secretary, Department of Indian Affairs, October 28, 1910, LAC, RG10, vol. 6443, file 881-1, part. 1 (ICC Exhibit 1a, p. 104).

⁸⁹ J.D. McLean, Assistant Deputy Superintendent General and Secretary, Department of Indian Affairs, to representatives of various religious bodies, November 25, 1910, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 108).

for this reason there was frequently considerable difficulty in securing a sufficient attendance of Indian pupils to earn the grant adequate for their up-keep.

To meet the educational needs of the Indian children who could not for one reason or another be provided for in the Industrial schools already mentioned, from time to time boarding schools were established on a number of reserves at the charge of the various religious bodies. It was a foundation principle in the case of the Industrial schools that the Government erected the buildings at Government cost, while in the case of the boarding schools the Church erected the buildings at the cost of the Church. ...

As time went on it became more and more apparent that the Boarding schools were filling a want that the Industrial schools had not filled, and for this reason instead of the number of Industrial schools having been increased the number of boarding schools has been increased. ...

... Realizing the importance of the educational work being done by the boarding schools and the serious burden that the support of these schools is upon the various Churches interested in them the Government concluded and the conference agreed that it would be wise to substantially increase the grant per head to boarding schools conducted under Church auspices, but in doing this it was necessary that the unbusinesslike lack of arrangement whereby the Government repaired and added to mission buildings and met deficiencies in mission management should cease.⁹⁰

Fort Fraser Barricade Agreement of 1911

As had occurred in the Babine and Supper Skeena regions in 1906, demands that First Nations abandon their fishing barricades in the area of “Stuart River and Fraser Lake, tributaries of the Fraser River” escalated in 1911.⁹¹ However, when the barricade controversy resurfaced, First Nations in the Stuart Lake Agency and OMI officials renewed in their requests for an industrial school in their new agency. On February 11, 1911 Reverend Coccola wrote to Fishery Officer Horan and advised:

Stuart Lake people promise me to abandon the barricades on the following conditions -

1st. That the Government will consent to open and provide a boarding school for their children, boys and girls, where at least their offspring would be free from

⁹⁰ J.D. McLean, Assistant Deputy Superintendent General and Secretary, Department of Indian Affairs, to representatives of various religious bodies, November 25, 1910, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 109-111).

⁹¹ Barbara Lane, *Federal Recognition of Indian Fishing Rights in British Columbia, The Babine Barricade Agreement of 1906, The Fort Fraser Agreement of 1911, The Fort St. James Agreement of 1911, A Brief Summary*, Prepared for the Union of BC Chiefs, April 1978, p. 10 (ICC Exhibit 8a, p. 11).

starvation, and [l]et parents free to go to their trappings as far as game can be found, which they could not do if all the family had to be packed or follow.⁹²

On February 28, 1911, Indian Agent McAllan reported that OMI officials agreed to the establishment of a day school at Stoney Creek, despite an OMI preference towards industrial schools.⁹³

In June 1911, two agreements detailed the conditions under which the First Nations were prepared to abandon the use of fishing barricades. The first agreement, the 'Fort Fraser Barricade Agreement' or the 'Fort Fraser Agreement', was concluded on June 15, 1911. It was signed by "Chief Antoine, of [the] Stoney Creek [Band], Chief George, of [the] Fort Fraser [Band] (Nadleh Whut'en Indian Band), and Chief Isidore, of [the] Stella [Band]."⁹⁴ This agreement stipulated that:

We, The undersigned, acting in the capacity of Chiefs and representing our respective bands, in the Stuarts Lake agency, do hereby agree, that for, and in consideration of the following concessions herein enumerated, we will abandon The [sic] method known as barricading the rivers of The [sic] Northern interior for the taking of salmon ...

...

List of concessions or demands:-

...

(4) The Government will be required to locate, erect, maintain, and operate, a school, within the Stuarts Lake agency.⁹⁵

⁹² N. Coccola, Stuart's Lake, to H.P. Horan, February 11, 1911, LAC, RG 23, file 583 at 590 (ICC Exhibit 1a, p. 124).

⁹³ W. J. McAllan, Indian Agent, Stuart Lake Agency, to J.D. McLean, Assistant Deputy Superintendent General of Indian Affairs, February 28, 1911, LAC, RG 10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, pp. 126-27).

⁹⁴ 'Fort Fraser Barricade Agreement', June 15, 1911, LAC, RG 23, file 583, part 1, roll 24 at 624 and 633 (copy) (ICC Exhibit 1a, pp. 139, 141).

⁹⁵ 'Fort Fraser Barricade Agreement', June 15, 1911, LAC, RG 23, file 583, part 1, roll 24 at 624 and 633 (copy) (ICC Exhibit 1a, pp. 138, 140).

The Fort Fraser Barricade Agreement also stipulated that the government provide the First Nations with nets, farming implements, garden seeds, additional assistance in times of famine and destitution, and fishing stations for their use and benefit.⁹⁶

The second agreement was signed at Fort St. James on June 19, 1911 and is known as the 'Fort St. James Barricade Agreement'. This agreement was signed by representatives of the Nakazle Band, Pinche Band and the Tacha Band, also of the Stuart Lake Agency.⁹⁷ It is very similar to the Fort Fraser agreement and it also included a school provision.⁹⁸

Concurrently, the Oblates of Mary Immaculate continued to prepare for the opening of a boarding school in the Stuart Lake Agency. On August 10, 1911, Bishop E.M. Buno, Prefect Apostolic of the Yukon, reported to Assistant Deputy Superintendent General McLean that he had:

just returned [sic] from my visit to the indians [sic] of the interior of B.C. from Hazelton to Fort George, I hasten, according to my promise [sic], to communicate to you the results of my observations with regard to providing these 2000 indians with the blessing of a suitable education.

1) I was glad to realise that the parents are all anxious to send their children to school. They are perfectly willing [to] part with them during the period necessary to their education. There are over 200 children of school age.

2) ... In fact there would be pupils enough to fill up two boarding schools. One could be located at Taylorville or close by, the other around Fraser Lake. Both places are centrally located, on the [C.P.R.] and adapted to the purpose intended [sic].

3) As the needs are urgent one boarding school ought to be erected next year.⁹⁹

⁹⁶ Fort Fraser Barricade Agreement', June 15, 1911, LAC, RG 23, file 583, part 1, roll 24 at 624 and 633 (copy) (ICC Exhibit 1a, pp. 138, 140).

⁹⁷ Fort St. James Barricade Agreement', June 19, 1911, LAC, RG 23, file 583, part 1, roll 24 at 622-620 and 631-630 (copy) (ICC Exhibit 1a, p. 146).

⁹⁸ Fort St. James Barricade Agreement', June 19, 1911, LAC, RG 23, file 583, part 1, roll 24 at 622-620 and 631-630 (copy) (ICC Exhibit 1a, pp. 147-148).

⁹⁹ E.M. Buno, Prefect Apostolic, OMI Annunciation Church, to J.D. McLean, Assistant Deputy Superintendent of Indian Affairs, August 10, 1911, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 158).

"The Yukon prefecture was created in 1908; McNally, *Distant Vineyard*, p. 265. There are three types of ecclesiastical districts: prefectures, vicariates and dioceses. Prefect Apostolic govern areas where no dioceses with resident Bishops exist." [quoted in footnote No. 29, *Nadleh Whut'en First Nation Lejac School Historical Report*, prepared by Public History Inc. for Indian and Northern Affairs Canada, Specific Claims Branch, November 30, 2004, p. 5 (ICC Exhibit 3b, p. 11)].

In reply to Bishop Buno, J.D. McLean stated:

your suggestion with reference to the establishment of a boarding school or schools has been noted. The matter will receive thorough consideration when the estimates for the next year are being prepared. As you are aware this matter has also come up in connection with the question of the fisheries regulations. I wish to again assure you that this matter will not be lost sight of although at the present time the Department is not in a position to give you a definite promise that action will be taken next year to put up a boarding school.¹⁰⁰

In contrast with McLean's vague assurances, Duncan Campbell Scott, (who held the combined positions of Chief Accountant and Superintendent of Indian Education), informed the Deputy Superintendent of Indian Affairs Frank Pedley in correspondence dated January 1912, that the Department was not inclined to invest in a boarding school at Stuart Lake until the Grand Trunk Pacific Railway line was completed in that area. Scott also noted that "[t]here has been no positive promise that the building would be erected at any special date".¹⁰¹

Despite the Department's apparent preference for day schools, Assistant Deputy Superintendent General J.D. McLean and Bishop Buno continued work towards establishing a boarding school. In April 1912, McLean instructed Bishop Buno "to let the Department have full information respecting the location that you consider best for a school of this kind, [and] the number of children for whom accommodation might be provided".¹⁰²

On June 21, 1912 Bishop Buno advised the Department that:

the best location for the intended boarding school in the interior of North B.C. would be at the East end of Fraser Lake, on the South bank of the Nechaco river, opposite to the actual Fort Fraser indian [sic] village. That location offers the advantages of good water, rich farming [sic] land and facility of communications, being close to the Fraser Lake townsite. ...

¹⁰⁰ J. D. McLean, Assistant Deputy and Secretary, to Rev. E.M. Buno, OMI, October 5, 1911, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 160).

¹⁰¹ D.C. Scott, Chief Accountant to Pedley, January 1, [1912], LAC, RG 10, vol. 6443, file 881-1, part 1, (ICC Exhibit 1a, p. 162).

¹⁰² J.D. McLean, Assistant Deputy and Secretary, to Rev. E.M. Buno, OMI, Annunciation Church, April 15, 1912, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 163).

I beg moreover to recommend a boarding school capable of accommdating [sic] 100 pupils as there are fully 200 children of school age in that district who will depend on thatm [sic] institution for their education.¹⁰³

More than a year later, on July 24, 1913, Assistant Deputy and Secretary J.D. McLean notified Bishop Bunoze that

in view of the remoteness of the situation at the present time, the Department is of opinion that it would be quite impossible to consider erecting a building until such time as supplies can be taken in by rail. ... In the meantime the Department would be pleased to give consideration to the question of conducting one or two day schools in some of the villages of the district where the Indians are permanently located and engaged in such occupations as do not call them away from the reserve to any great extent.¹⁰⁴

Bishop Bunoze replied on August 7, 1913, suggesting that day schools be opened at “Babine, Stewart’s [sic] Lake and Hagwelget”.¹⁰⁵ On April 13, 1914, a new day school was opened at Stuart Lake.¹⁰⁶ There is no documentation in the record of this inquiry to indicate how many, if any, Nadleh Whut’en children were enrolled at this day school. In 1916, the government agreed to fund the operation of a residential school at Fort St. James in the Fraser Lake Agency if the OMI paid to have the school constructed.¹⁰⁷

¹⁰³ E.M. Bunoze, OMI, to J.D. McLean, Assistant Deputy and Secretary, Indian Department, June [21], 1912, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 164).

¹⁰⁴ J.D. McLean, Assistant Deputy and Secretary, to Rev. E.M. Bunoze, OMI, Annunciation Church, July 24, 1913, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 189).

¹⁰⁵ E.M. Bunoze, Prefect Apostolic, OMI, Annunciation Church, to J.D. McLean, Assistant Deputy and Secretary, Indian Department, August 7, 1913, LAC, RG10, vol. 6042, file 163-16-1, part 1 (ICC Exhibit 1a, p. 190).

¹⁰⁶ Research indicates that this school was most likely known as the Stuart Lake Indian Day School mentioned earlier and administered by the OMI under Reverend J. Allard. This school was located approximately 40 miles north of Fraser Lake. [See School Statement, March 31, 1915, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1915*, 140-141 (ICC Exhibit 1a, pp. 210-11); School Statement, March 31, 1918, Canada, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1918*, 1918, 86-87 (ICC Exhibit 1a, pp. 253-54)].

¹⁰⁷ Deputy Superintendent General to Rt. Rev. E. M. Bunoze, OMI Annunciation Church, November 2, 1916, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 232).

On February 2, 1917, a residential school opened at Stuart Lake with 39 boys enrolled and the expectation that 50 boys would soon be enrolled.¹⁰⁸ With government support, church officials “decided to erect a temporary building to start the education of as [many] as could be accommodated” while Canada participated in the Great War.¹⁰⁹ The Stuart Lake Indian Day School (at Fort St. James) continued to operate temporarily while the residential school at Stuart Lake was modified to provide for accommodation of 50 girls.¹¹⁰ OMI officials stated that “[o]ver 200 children of school age justify the existence of this school”,¹¹¹ although the evidentiary record of this inquiry does not indicate how many, if any, Nadleh Whut'en children attended this industrial school.

Establishment of The Lejac Indian Residential School

The OMI continued to press the government for an industrial school at Fraser Lake. On December 4, 1918, Bishop Bunož wrote to Deputy Superintendent General of Indian Affairs Duncan Scott reminding him “of the promise made to me and to the Indians of the Fraser Lake Agency that the first indian [sic] school to be erected after the war would surely be the school of the above named agency.”¹¹² Bishop Bunož sent another reminder of the government’s ‘promise’ to erect a school on

¹⁰⁸ E.M. Bunož, Prefect Apostolic, OMI, Annunciation Church, to Duncan C. Scott, Deputy Superintendent General of Indian Affairs, February 10, 1917, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 236).

¹⁰⁹ J. Allard, Principal, OMI, to W.J. McAllan, February 15, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 274).

¹¹⁰ E.M. Bunož, Prefect Apostolic, OMI, Annunciation Church, to Duncan C. Scott, Deputy Superintendent General of Indian Affairs, February 10, 1917, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 236); Extract from Report of Inspector Cairns, September 26, 1917, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 238).

¹¹¹ J. Allard, Principal, OMI, to W.J. McAllan, February 15, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 274).

¹¹² E.M. Bunož, Bp, OMI, to Duncan C. Scott, Deputy Superintendent General of Indian Affairs, December 4, 1918, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 267).

January 21, 1919.¹¹³ After being advised that money might not be available that year or the next for construction of a boarding school at Fraser Lake,¹¹⁴ Bishop Bunož wrote to Duncan C. Scott stating:

I never expected that the Canadian Government would thus delay the fulfilling of their part in a bilateral contract when the Indians have fulfilled theirs ten years ago. I so far depended upon the justice of the case but begin to lose hope and confidence.¹¹⁵

Meanwhile, conditions at the temporary Stuart Lake Boarding School were deteriorating and OMI officials were pressing the Department for a new building for that school as well¹¹⁶. At the Department, discussions regarding the construction of a permanent boarding school at Stuart Lake institution occurred. On January 21, 1919, Assistant Deputy and Secretary McLean wrote to Indian Agent McAllan, stating:

The Rev. Father Bunož of Prince Rupert has written the Department in regard to the erection of an up-to-date building for the Stuart Lake Boarding School to replace the temporary one now in use.

He also wishes permission to take in one hundred pupils, fifty boys and fifty girls.

With regard to the number of pupils for which a grant shall be paid I beg to say that the Department will be willing to allow a per capita grant for all they can accommodate up to one hundred pupils.¹¹⁷

¹¹³ E.M. Bunož, Bp, OMI, Bishop's House, to Duncan C. Scott, Deputy Superintendent General of Indian Affairs, January 21, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 270).

¹¹⁴ Duncan C. Scott, Deputy Superintendent General, to Right Rev. E.M. Bunož, OMI, Bishop's House, January 31, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 272).

¹¹⁵ E.M. Bunož, Bp, OMI, Bishop's House, to Duncan C. Scott, Deputy Superintendent General of Indian Affairs, February 8, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 273).

¹¹⁶ J. Allard, Principal, OMI, to W.J. McAllan, February 15, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, pp. 274-79).

¹¹⁷ J.D. McLean, Asst. Deputy and Secretary to W.J. McAllan, Indian Agent, January 21, 1919, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 271).

On March 14, 1919, Department of Indian Affairs Architect R. M. Ogilvie reported that “improvements cannot be economically made” to the temporary Stuart Lake Boarding school.¹¹⁸ Ogilvie suggested “it should be definitely determined if a more advantageous site for the Stuart Lake Boarding School could not be obtained ... near [the] railway ”.¹¹⁹

On March 31, 1919, J.D. McLean instructed Stuart Lake Indian Agent McAllan to examine fully into the conditions and merits of the locations proposed, namely, Stuart Lake and Fraser Lake. You should furnish the Department with a full report, giving your views and your reasons therefore, as to which, in your opinion, is the better and more suitable location for the boarding school. ...

...

Before arriving at your decision, the following points should be taken into consideration, the quantity and quality of the land with a view to future farming operations; adequate water supply and drainage facilities; the most central point for recruiting pupils for the future carrying on of the work, as it is not desirable, owing to the cost of transportation, that children be taken long distances to and from the school. The question, too, of the present cost of transportation of building material and the obtaining of the same for the erection of the new building, also the future cost involved in the transportation of supplies, should be considered.¹²⁰

Indian Agent McAllan wrote back to the Department on March 31, 1919, reporting

that I favour [the boarding school's] location on Se-as-bunkut [sic] Reserve (No 4) on the south side of Fraser Lake about midway between the stations of Fraser Lake and Encombe. Advantages of this location may be summarized as follows - The G.T.P. Railway runs through the reserve and as stated in the fifth paragraph of your letter, if a siding were put in cars of building material etc could be unloaded right on the spot and I think it might easily be arranged with the railway people (Govt. road now) to stop passenger trains at any time when there were children or other passengers for the School aboard.

The reserve contains 506 acres with only two Indian families resident so that 300 acres could easily be appropriated for School lands. Soil is of excellent quality,

¹¹⁸ R.M. Ogilvie, Architect, Department of Indian Affairs to Scott, March 14, 1919, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 293).

¹¹⁹ R.M. Ogilvie, Architect, Department of Indian Affairs to Scott, March 14, 1919, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 294).

¹²⁰ J.D. McLean, Assistant Deputy and Secretary, to W.J. McAllan, Indian Agent, March 21, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, pp. 295-96).

is mostly timbered with growth of poplar willow and some spruce, but small open parky spots occur. Ten to twenty [acres] could easily be got under cultivation the first [year] without much expense in clearing. Water could be pumped from [Fraser] Lake or perhaps a well could be sunk. Building site and drainage good. Consult the Agency map and you will notice this point is not far removed from its geographical centre.

The Reserve is under the jurisdiction of the Department which I think is important.¹²¹

On April 10, 1919, D.C. Scott the Deputy Superintendent General of Indian Affairs, wrote to Bishop Bunozy informing him that Indian Agent McAllan preferred Seaspunkut IR 4 as the location of the new school over that of the existing location at Stuart Lake.¹²² After inspecting Seaspunkut IR 4, Bishop Bunozy wrote to Deputy Superintendent General Scott on May 5, 1919, approving IR 4 as the location of the new school.¹²³ Bunozy reported “the indians[sic] interested in that reserve are very pleased to surrender the greater part of it for that purpose. In fact they have never used it to any extent in the past.”¹²⁴ Bishop Bunozy did not describe any conversations he may have had with the Nadleh Whut’en Indian Band during his inspection.

On February 5, 1920, the plans for the “Stuart Lake Roman Catholic Boarding school building” were completed.¹²⁵ Deputy Superintendent General Scott reported that the department had

prepared plans for a building to accommodate 150 pupils. Due economy has been shown and the construction is in no way extravagant or beyond our needs for that number of pupils.¹²⁶

¹²¹ W.J. McAllan, Ind. Agt., Stuart Lake Agency, to Asst. Dep. and Secy. Dept. of Ind. Affrs., March 31, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 297).

¹²² J.D. McLean, Deputy Superintendent General of Indian Affairs, to Right Rev. E.M. Bunozy, OMI, Bishop’s House, April 10, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, pp. 318-320).

¹²³ E.M. Bunozy, B.P., OMI, Bishop’s House to Duncan C. Scott, Deputy General of Indian Affairs, May 5, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 322).

¹²⁴ E.M. Bunozy, B.P., OMI, Bishop’s House to Duncan C. Scott, Deputy General of Indian Affairs, May 5, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 322).

¹²⁵ Duncan C. Scott, Deputy Superintendent General, Department of Indian Affairs to Meighen [recipient not identified further], February 5, 1920, LAC, RG 10, vol. 6444, file 881-5, part 4 (ICC Exhibit 1a, p. 328).

¹²⁶ Duncan C. Scott, Deputy Superintendent General, Department of Indian Affairs to Meighen [recipient not identified further], February 5, 1920, LAC, RG 10, vol. 6444, file 881-5, part 4 (ICC Exhibit 1a, p. 328).

A memorandum dated June 28, 1920 indicates that there were more than 150 school-aged children in the Stuart Lake Agency. The detailed break-down was recorded as follows:

According to the last census (1916) there were 24 bands in the Stuart Lake Agency with 278 children of school age (6 to 15 years), 142 boys and 136 girls. These children are all Roman Catholics, and, except the Stuart Lake Boarding School, there is no Indian school in the agency. The new boarding school will be situated in a central part of the agency, near railway facilities, and the greater number of children in the agency will be accesible [sic] to the school.¹²⁷

On July 3, 1920, Order in Council P.C. 1410 awarded the contract to construct “the Indian boarding school at Stuart Lake” to “R. Moncrieff [of] Vancouver”.¹²⁸ The OIC incorrectly affiliated Stuart Lake (either as an agency or band) with the Babine Agency and as the location of the school. Government and OMI officials had already established that IR 4 would be the location of the school. The school was officially named the Fraser Lake Boarding School in July 1920.¹²⁹

The School, the Band and IR 4

On March 10, 1921 Assistant Deputy and Secretary J.D. McLean instructed Indian Agent McAllan

to secure from the male members of the band interested a resolution setting aside the use of 300 acres of this reserve for school purposes, and a description thereof should be furnished sufficient for identification on plan.¹³⁰

Indian Agent McAllan met with the Nadleh Whut'en Indian Band and reported back to the department on April 12, 1921, stating

¹²⁷ Unidentified author to Scott [recipient not identified further], June 28, 1920, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 332).

¹²⁸ Order in Council 1410, July 3, 1920, RG 2, vol. 1252, file 3 Jul 1920, (ICC Exhibit 1a, pp. 333-34).

¹²⁹ J.D. McLean, Asst. Deputy and Secretary, to Rev. J. Allard, Principal, Stuart Lake Boarding School, July 3, 1920, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 337).

¹³⁰ J.D. McLean, Assistant Deputy and Secretary, to W.J. McAllan, Indian Agent, March 10, 1921, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 340).

I had a meeting of the male members of the band to-day and the matter was gone into. It was agreed to set aside the East half of the reserve containing approximately 260 acres for this purpose and a resolution to that effect was signed by the Chief and principal headman. I may say it is not thought that the center line when run will cut off any Indian improvements from the West half where the Indians have their houses but if it should the Indians wish it clearly understood that the line is to be diverted at that point to leave these improvements on the West portion of Reserve.¹³¹

In his report, McAllan did not offer any further details on the meeting, but did identify band member's homes on the western half of IR 4 on the sketch he prepared and attached to his report.¹³²

The 1921 Band Council Resolution setting aside land on IR 4 for school purposes states:

We, the undersigned, Chief and Councillors of the Fraser Lake Band of Indians owning the reserve No 4, Seaspunkut, on Fraser Lake, in the Stuart Lake Agency in the Province of British Columbia, at a council summoned for the purpose according to the rules of the band, and held on the said reserve this 12th day of April 1921, in the presence of the Indian Agent for the said reserve, representing thereat the Superintendent General of Indian Affairs for the Dominion of Canada;

Do, hereby for ourselves, and on behalf of the Indian owners of the said reserve, agree and request that the East half of the aforesaid No 4 reserve and approximately amounting to 260 acres be set aside for the purposes of the erection of an Indian School and farm and grounds therefor.¹³³

At the Community Session, the Elders could not testify how the school came to be built on IR 4 or the details of the Band's permission to do so. However, Elder George George Sr. stated:

[i]n 1920, my dad ... was a hereditary chief, so they settled here and my dad became a chief here, and he was a chief here until 1956. I'm just bringing that up because at the time of the - - when it was decided that a school would be built at Indian Reserve Number 4, they weren't involved, so they didn't tell - - they never told me of any

¹³¹ W.J. McAllan, Ind. Agt., to Asst. Dep. and Secy., Dept. of Ind. Affrs., April 12, 1921, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 341).

¹³² Sketch attached to W.J. McAllan, Ind. Agt., Indian Agent's Office, to Asst. Dep. and Secy., Dept. of Ind. Affrs., April 12, 1921, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 343) and Untitled sketch showing proposed location of "school" on "East ½" of No. 4 Reserve, Seaspunkut, prepared by Indian Agent W.J. McAllan, c. 1921, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 7e).

¹³³ Band Council Resolution attached to W.J. McAllan, Ind. Agt., Indian Agent's Office, to Asst. Dep. and Secy., Dept. of Ind. Affrs., April 12, 1921, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 342).

meetings that was held regarding the school, so I couldn't, like I say, there weren't - they weren't in the vicinity at that time, eh, until the twenties, when after - - after the was in the process of being built.¹³⁴

Elder Jack Lacerte was told that the Ketlo family "turned over some of the land for the school".¹³⁵

Much later in the history of the Lejac School (1954), the OMI wanted to obtain legal title to the reserve lands on which the OMI had erected churches and chapels. The Department denied this request and explained how they had approved church use of reserve lands:

The Department has consistently held the view that it is unwise to alienate small parcels of Reserve land lying within the confines of Indian Reserves. ... that before any part of a Reserve can be alienated, it must be surrendered by the Indians and as a basis for surrender we must have a legal description of the land, that is, a description based on a survey. In many cases it would be difficult, if not impossible, to secure a surrender from the Indians. Furthermore, we would require that the survey be carried out at the expense of the applicant and in many areas this would prove a costly undertaking and might often result in the moneys being wasted, if the Indians refused to surrender.

It is because of these factors that over the years the practice has grown up of simply asking Band Councils to reserve for the use of churches designated areas, on the understanding that the said area may be used by the church in question for so long as it is required for church purposes. In practice, we receive Council resolutions to that affect and simply approve the resolution and write a letter to the Superintendent in question advising him of such approval.

While that is the practice today and was undoubtedly carried out in some cases in the past, we know that there are many instance where there is no record of anyone having approved the occupation of Reserve lands for church purposes. Presumably the Indians consented to such use in these cases, but there is no record of such consent. We have no up-to-date record of all church sites on Reserves in Canada and if you wish to supply a list by Indian Reserves, we could check our records in an endeavour to ascertain the basis of the occupation. We would estimate that in some few cases outright title may have been granted; in others there may have been consent by a letter, but that in a majority of the cases there would be no record of formal approval of the occupation.¹³⁶

¹³⁴ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, pp. 32-33, G. George Sr.).

¹³⁵ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 59, J. Lacerte).

¹³⁶ H.M. Jones, Director, Indian Affairs Branch, Department of Citizenship and Immigration, to Rev. G. Laviolette, General Secretary, Indian and Eskimo Welfare Commission, OMI, University of Ottawa, Ontario, February 10, 1954, OMI Deschalets Archives HR6111.C73R5 (ICC Exhibit 1a, pp. 1424-25).

The Fraser Lake Indian Boarding School (which was later renamed the Lejac Indian Residential School¹³⁷) opened on January 17, 1922, more than 10 years after the signing of the Fort Fraser Barricade Agreement.¹³⁸ Indian Agent McAllan reported:

80 children were transferred from Stuart Lake ... Arrangements are now being made to add additional children from the various bands until the housing capacity of the institution is reached.

...

... Nearly 300 acres of land from the No 4 Reserve have been set apart for School purposes. When cleared up this area will make farm and garden lands of the finest quality.¹³⁹

ENROLMENT OF NADLEH WHUT'EN STUDENTS AT THE LEJAC INDIAN RESIDENTIAL SCHOOL

Indian Agent McAllan reported that, by March of 1922, the school was operating at its full capacity of 125 students.¹⁴⁰ From Agent McAllan's report, it appears most of the students enrolled in 1922 were from within the Stuart Lake Agency, but specific band affiliations were not identified.¹⁴¹ Official attendance and admission records, with band affiliations listed, are only available for the years 1938 to 1953 and 1965 to 1972.¹⁴² Similarly, there are no records on the documentary record

¹³⁷ The Department of Indian Affairs approved changing the school's name from 'Fraser Lake Indian Boarding School' to the 'Lejac Indian Residential School' in 1931 [See Russell Ferrier, Supt. of Indian Education, to W. E. Ditchburn, Indian Commissioner, December 30, 1931, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 483)]. In this history, the school will be referred to as the 'Fraser Lake Indian Boarding School' for the years prior to the name change and the term 'Lejac' will be used for years following the name change, as well as when speaking about the school generally.

¹³⁸ W.J. McAllan, Ind. Agt., to Secretary, Department of Indian Affrs., January 26, 1922, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 344). The school is also referred to as the 'Fraser Lake (Indian) Industrial School' in the historical documents.

¹³⁹ W.J. McAllan, Ind. Agt., to Secretary, Department of Indian Affrs., January 26, 1922, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 344).

¹⁴⁰ W.J. McAllan, Indian Agent, to Secretary, Department of Indian Affairs, February 16, 1922, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 347).

¹⁴¹ W.J. McAllan, Indian Agent, to Secretary, Department of Indian Affairs, February 16, 1922, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 347).

¹⁴² Indian Residential School Quarterly Returns, Records of Admission and Discharge of Pupils at Lejac Indian Residential School, 1938-1953 and 1965- 1972, LAC, RG 10, vol. 6445, file 881-10, part 5; LAC, RG 10, vol. 6443, file 881-2, part 5; IRSR, file 965/23-26, vol. 3 (ICC Exhibit 1c).

which indicate the number of Nadleh Whut'en children eligible for enrolment in each year, or what characteristics or policy were used to determine their eligibility. Furthermore, there is no indication as to what methods were used by the OMI, the Royal Canadian Mounted Police or the local Indian Agent in locating and enrolling children.

A preliminary analysis of available attendance and admission records indicates that the preferred age for admission to the school was between 7 and 13, and the average age for discharge was approximately 16 years of age.¹⁴³ This preliminary analysis also indicates that the Fraser Lake Boarding School enrolled children from other Indian Bands as well as from Bands outside the Stuart Lake Agency. Children from the following bands are recorded as being enrolled in the Fraser Lake Boarding School throughout its existence: Telegraph Creek, Squamish, Kitselas, Fort Babine, Atlin, Hazelton, Morricetown.¹⁴⁴ It is also evident that children were admitted to, and discharged from the school throughout the school year, so the overall attendance at the school fluctuated during the course of any given school year.¹⁴⁵

At the Community Session, Elder Rita Morin testified that, during her tenure as a student at Lejac, only three or four girls out of the 30 in her dormitory were from the Nadleh Whut'en Band.¹⁴⁶ Elder George George Sr. testified that children from Telegraph Creek, Atlin, Burns Lake, Hazelton, Fort Ware, Prince Rupert, Cheslatta, Fort St. James, Tache, Takla, Lheidli as well as non-Aboriginal students attended Lejac from 1943-1949.¹⁴⁷ Elder George Sr. also testified that in the 1960s the

¹⁴³ Lejac Indian Residential School Quarterly Returns, Records of Admission and Discharge of Pupils at Lejac Indian Residential School, 1938 - 1972 , LAC, RG 10, vol. 6445, file 881-10, part 5; IRSR, file 965/23-26, vol. 3 (ICC Exhibit 1c).

¹⁴⁴ Lejac Indian Residential School Quarterly Returns, Records of Admission and Discharge of Pupils at Lejac Indian Residential School, 1938 - 1972 , LAC, RG 10, vol. 6445, file 881-10, part 5; IRSR, file 965/23-26, vol. 3 (ICC Exhibit 1c).

¹⁴⁵ Lejac Indian Residential School Quarterly Returns, Records of Admission and Discharge of Pupils at Lejac Indian Residential School, 1938 - 1972 , LAC, RG 10, vol. 6445, file 881-10, part 5; IRSR, file 965/23-26, vol. 3 (ICC Exhibit 1c).

¹⁴⁶ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 75, R. Morin).

¹⁴⁷ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, pp. 29-30, G. George Sr.).

school “didn’t have room for our children to go to school there” so his children were bussed to Vanderhoof for school.¹⁴⁸

According to the documentary record, there are a multitude of reasons why Nadleh Whut’en children were not enrolled at the Lejac school. One reason was mentioned by N. Coccola, Reverend Principal of the Fraser Lake Boarding School in his report for the quarter ending September 30, 1927. He stated: “[a]s usual we had to go around the camps to gather them [students], the generality of parents do not appreciate yet the advantage of education, they would rather keep their children with them.”¹⁴⁹

The Lejac Indian Residential School consistently enrolled more students than the per capita grant financed, resulting in the denial of requests for enrolment. On April 21, 1930, Principal Coccola requested the per capita grant be increased. He stated:

we have in our institution 80 boys and 90 girls, but the Department grant has been, so far, for 150 pupils only. Is there any hope to see the grant extended to the actual number of pupils.

Should we refuse to accept children when offered, I fear the parents would, afterwards, find an excuse for not sending them when asking for them.¹⁵⁰

This request was denied by the Department, citing a lack of funds.¹⁵¹

Principal Coccola repeated his request for an increase in the grant for the school at the beginning of the 1931 school year to allow more children to attend.¹⁵² In his quarterly report, Coccola also mentioned:

¹⁴⁸ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, pp. 20, 26, 30-31, G. George Sr.).

¹⁴⁹ Rev. N. Coccola, OMI, Principal, Industrial School, to R.H. Moore, Indian Agent, September 30, 1927, LAC, RG 10, vol. 6444, file 881-5, part 4 (ICC Exhibit 1a, p. 427).

¹⁵⁰ Rev. N. Coccola, OMI, Principal, Fraser Lake Industrial School, to Russell T. Ferrier, Superintendent of Indian Education, April 21, 1930, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 456).

¹⁵¹ Marginalia found on: Rev. N. Coccola, OMI, Principal, Fraser Lake Industrial School, to Russell T. Ferrier, Superintendent of Indian Education, April 21, 1930, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 456); A.F. MacKenzie, Acting Asst. Deputy and Secretary, to Rev. N. Coccola, OMI, Principal, Fraser Lake Industrial School, April 30, 1930, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 457).

¹⁵² Rev. N. Coccola, OMI, Principal, Fraser Lake Industrial School, to R.H. Moore, Indian Agent, September 30, 1931, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 476).

The re-opening of the school was fixed to the [28th] of August and on the [19th] the first [truck] from Stuart Lake brought in a good contingent. With the two trucks loaded on the following day the majority of the pupils were in the house. The R. C. M. Police saw that the balance were brought in also. The number of the new recruits is fifty-two. Many more children would be willing to come if we had room for them.¹⁵³

In June of 1932, at the end of the school year, G.S. Pragnell, Inspector of Indian Agencies, recorded a total pupilage of 163 boys and girls at the Lejac Indian Residential School on the date of his visit.¹⁵⁴ He also intimated that haying might be impeding attendance at the school and/or the prompt return of students in September. Pragnell reported that:

The Rev. Principal contends that the summer holidays should officially be made two months and Mr. Moore is inclined to agree with him. Apparently, owing largely to long distances travelled to their homes, and the fact that haying in the agency takes place late, it is almost impossible to get the children back at the prescribed time.¹⁵⁵

In March of 1934, Principal L.H. Rivet, Reverend Coccola's successor, again requested an increase in the per capita funding from the department; this time to cover 175 pupils. In his letter to Indian Agent Moore, Rivet stated:

In going over the quarterly reports the Department will note that the number of pupils in residence at the school is far in excess to the quota for which they allow a per capita grant. Also, word has come to me that the Indians are anticipating sending many more children for admission with the next Fall re-opening. From the different camps, throughout the agency, there are many more pupils to be admitted or who should be put in the school.

Under the present conditions it will be almost impossible to accept the increase due to the number to be admitted being larger than the number to be discharged.

...

¹⁵³ Rev. N. Coccola, OMI, Principal, Fraser Lake Industrial School, to R.H. Moore, Indian Agent, September 30, 1931, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 476).

¹⁵⁴ G.S. Pragnell, Inspector of Indian Agencies, to unknown recipient, June 15, 1932, LAC, RG 10, vol. 6444, file 881-5, part 4 (ICC Exhibit 1a, p. 485).

¹⁵⁵ G.S. Pragnell, Inspector of Indian Agencies, to unknown recipient, June 15, 1932, LAC, RG 10, vol. 6444, file 881-5, part 4 (ICC Exhibit 1a, p. 485).

As the school is capable of accommodating 175 pupils, easily, would it not be possible to have our quota raised to that number and a per capita grant given for same.¹⁵⁶

The Department denied this request on April 25, 1934, but stated that it would re-consider the request in the 1935-36 fiscal year.¹⁵⁷

Principal Rivet reported the 1934-35 school year began with 147 students enrolled, including “[a] number of new arrivals”,¹⁵⁸ although, the band and/or agency affiliation of these children was not reported. Principal Rivet also reiterated his request for increased funding when he reported:

Word has recently reached us that in the near future we may expect an influx of new pupils. From the report given it is to be expected that the school will be overcrowded according to the present quota capacity. Under the conditions of the present per capita grant we are not in a position to cope with the situation but nevertheless some sacrifice has to be made as many of these children, all of school age, cannot be turned away on account of the home conditions and it therefore leaves us with a heavy burden to bear. The timely assistance already promised by the Department for the next fiscal year will come as a very welcome aid in lessening our worries.¹⁵⁹

In December of 1934, Principal Rivet further informed Indian Agent Moore that

At the present time the school is housing, at its own expense, a number of pupils over the allotted number. Other children, who should be receiving the schooling are remaining at home. Requests have been made for their entrance into the school but due to the heavy expense involved we have had to refuse them. ...

¹⁵⁶ L.H. Rivet, OMI, Principal, Indian Residential School, to R. H. Moore, Indian Agent, March 24, 1934, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 495).

¹⁵⁷ A.F. MacKenzie, Secretary, to R. H. Moore, Indian Agent, April 25, 1934, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 500).

¹⁵⁸ L.H. Rivet, OMI, Principal, Indian Residential School, to R. H. Moore, Indian Agent, September 30, 1934, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, pp. 510-511).

¹⁵⁹ L.H. Rivet, OMI, Principal, Indian Residential School, to R. H. Moore, Indian Agent, September 30, 1934, LAC, RG10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 511).

[T]here is no reason why more children should not be allowed the privileges afforded by the institution.¹⁶⁰

On January 2, 1935, Principal Rivet sent a similar letter to the Deputy Minister of Indian Affairs explaining that pupils had been denied admission to the school due to the inadequate per capita grant.¹⁶¹ Principal Rivet stated:

At the present time we are housing over the school's quota without assistance and many parents are asking admittance for their children but due to lack of funds we have had to refuse. Inasmuch as the building is capable of caring for a larger number, and the children are plentiful in the different camps, it is rather unfortunate that some means cannot be undertaken to give these youngsters the education they so sorely require.¹⁶²

During the 1934-35 school year, the Lejac Indian Residential School received a per capita grant for 150 pupils.¹⁶³ The evidentiary record of this inquiry indicates that grant was increased to 160 pupils during the 1935-36 school year.¹⁶⁴ The Department of Indian Affairs denied the school's requests for a further increase from 160 pupils to 175 pupils in January of 1936.¹⁶⁵ Under-funding and its effect on enrolment would continue to plague the school for the duration of its existence.

On New Years Day in 1937, tragedy struck the Lejac Indian Residential School; five young male students had run away from the school and four of them had perished on their attempt to return

¹⁶⁰ L.H. Rivet, OMI, Principal, Indian Residential School, to R. H. Moore, Indian Agent, December 20, 1934, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 515).

¹⁶¹ L.H. Rivet, OMI, Principal, Indian Residential School, to R. H. Moore, Indian Agent, December 20, 1934, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 515).

¹⁶² L.H. Rivet, OMI, Principal, Indian Residential School, to Deputy Minister of Indian Affairs, January 2, 1935, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 519).

¹⁶³ A.F. MacKenzie, Secretary, to R. H. Moore, Indian Agent, February 6, 1935, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 522).

¹⁶⁴ A.F. MacKenzie, Secretary, to R. H. Moore, Indian Agent, February 6, 1934, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 522); L.H. Rivet, Principal, OMI, Indian Residential School, to R. H. Moore, January 18, 1935, attached to R. H. Moore, to Secretary, Department of Indian Affairs, January 22, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, pp. 543-544).

¹⁶⁵ A. F. MacKenzie, Secretary, to R. H. Moore, Indian Agent, January 31, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 547).

home to “Nautley Indian Village”.¹⁶⁶ Due to what was described as a “local feeling over tragedy”, the Indian Affairs Branch launched an investigation into the incident and the conditions at the school in general.¹⁶⁷ At its conclusion, the investigation “found indications of unrest and resentment [however] this was mostly confined to the relatives and friends of the dead children.”¹⁶⁸ Oblate officials at the school characterised this event as an “accident”.¹⁶⁹

During a tuberculosis scare, in March of 1937, it was reported that OMI officials were sending children from the Stikine Agency to the Lejac School without notifying Stikine Indian Agent Harper Reed.¹⁷⁰ Describing the situation as “a bad state of affairs”, Reed indicated “[n]o more Indian Children are now being sent out of the Agency for schooling purposes”.¹⁷¹ By December 1937, 147 children were in attendance at the school.¹⁷²

Tuberculosis was a grave concern at the Lejac Indian Residential School. In February of 1938, Indian Affairs Secretary T. R. L. MacInnes, wrote to Indian Agent Moore saying “the Department expects to have additional funds in the new fiscal year for tuberculosis control among the Indians.”¹⁷³ This control was meant to prevent children with active tuberculosis from being

¹⁶⁶ D.M. MacKay, Indian Commissioner for BC, Department of Indian Affairs, to H.W. McGill, Director, Indian Affairs Branch, Depart. of Mines and Resources, March 25, 1937, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, pp. 608, 611).

¹⁶⁷ D.M. MacKay, Indian Commissioner for BC, Department of Indian Affairs, to H.W. McGill, Director, Indian Affairs Branch, Depart. of Mines and Resources, March 25, 1937, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 608).

¹⁶⁸ D.M. MacKay, Indian Commissioner for BC, Department of Indian Affairs, to H.W. McGill, Director, Indian Affairs Branch, Depart. of Mines and Resources, March 25, 1937, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 615).

¹⁶⁹ Rev. W. Byrne-Grant, OMI, Principal, Lejac Indian Residential School, to R.H. Moore, Indian Agent, December 31, 1937, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 677).

¹⁷⁰ Harper Reed, Indian Agent, Stikine, Telegraph Creek, BC to Secretary, Indian Affairs, March 9, 1937, LAC, RG10, vol. 6446, file 881-13, part 2 (ICC Exhibit 1a, p. 607).

¹⁷¹ Harper Reed, Indian Agent, Stikine, Telegraph Creek, BC to Secretary, Indian Affairs, March 9, 1937, LAC, RG10, vol. 6446, file 881-13, part 2 (ICC Exhibit 1a, p. 607).

¹⁷² Rev. W. Byrne-Grant, OMI, Principal, Lejac Indian Residential School, to R.H. Moore, Indian Agent, December 31, 1937, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 677).

¹⁷³ T.R.L. MacInnes, Secretary to R.H. Moore, Indian Agent, February 14, 1938, LAC, RG10, vol. 6446, file, 881-13, part 2 (ICC Exhibit 1a, p. 710).

admitted to residential school.¹⁷⁴ MacInnes also acknowledged that children from outside agencies were attending the Lejac School. He stated:

The Fraser Lake Indian Residential School brings its pupils from various parts of British Columbia and the Department has had reason to think that pupils have been admitted, who would not have been accepted if they had had [sic] a more thorough examination from the standpoint of tuberculosis.¹⁷⁵

At the end of the first quarter of 1938, 157 students were enrolled at Lejac.¹⁷⁶ According to the documentary record of this inquiry, residential school admission procedures changed in approximately 1938, possibly because of the tuberculous scare. Students were required to apply for admission to the Lejac Indian Residential School. A medical examination was conducted, following which the Department would consider the application for admission.¹⁷⁷

In November 1938, Indian Agent Moore wrote to the Department commenting that the enrolment of children from elsewhere was affecting the enrolment of children at Lejac from within his agency. He reported:

The point that I wish to bring to your attention is the system which exists at present whereby the Department authorises Agents of other Agencies to send children from their Agencies to school and which I know nothing about until after they arrive. I refer particularly to six or eight children whose applications for admission were sent in by Agent Mortimer and approved by the Department, and again in the case of Agent Reed of the Stikine Agency having received authority direct from the Department to send two children from his Agency down here.

The point is that these children from other Agencies come to school and owing to the fact that the school is not receiving a grant for a large enough number of the children of this Agency are being allowed, of necessity, to remain at home with their parents or guardians when they really should be at the school. The school

¹⁷⁴ T.R.L. MacInnes, Secretary to R.H. Moore, Indian Agent, February 14, 1938, LAC, RG10, vol. 6446, file, 881-13, part 2 (ICC Exhibit 1a, p. 710).

¹⁷⁵ T.R.L. MacInnes, Secretary to R.H. Moore, Indian Agent, February 14, 1938, LAC, RG10, vol. 6446, file, 881-13, part 2 (ICC Exhibit 1a, p. 710).

¹⁷⁶ Rev. W. Byrne-Grant, OMI, Principal, Lejac Indian Residential School, to R.H. Moore, Indian Agent, [March 31, 1938], LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 715).

¹⁷⁷ G.C. Mortimer, Indian Agent, Babine Agency, Indian Affairs Branch, to Secretary, Indian Affairs Branch, October 2, 1938, LAC, RG10, vol. 6445, file, 881-10, part 5 (ICC Exhibit 1a, p. 752).

authorities are not against taking a certain number of children over and above the number that they are given a grant for but it is unreasonable to expect them to take too many, especially as crowding is likely to result.¹⁷⁸

On November 17, 1938, the Chief of the Training Division of the Indian Affairs Branch Philip Phelan, notified Indian Agent Mortimer of for the Hazelton Indian Agency “that the number of children of school age in the Stuart Lake Agency is increasing and consequently it is found difficult to provide accommodation for children from other agencies.”¹⁷⁹ Phelan instructed Indian Agent Mortimer:

when you receive an application for the admission of any child from your Agency to the Lejac school you should first communicate with the Principal and ascertain if he can provide accommodation. In this event you should forward the application form and certificate of health to the Department for our approval.¹⁸⁰

A letter from Principal Simpson indicates that children from the Stuart Lake Agency were denied admission due to over-enrolment and lack of funding. Writing to the Department in October 1938, Simpson stated:

Sylvester Patrick, an Indian of the Fort Fraser Reserve, has approached me with the request that I take his two young children into the school.

...

... I told Sylvester that I would refer the case to you. At the present time we have 168 children residing at the school, 8 over our per capita allowance; and there is the probability that this number will be increased by the return to the school of some of the children who did not come back after the holidays.

Nevertheless, I would be willing to accept these two children if the Department will give me some pecuniary assistance in taking care of them.

¹⁷⁸ R.H. Moore, Indian Agent, to Secretary Indian Affairs Branch, November 3, 1938, LAC, RG10, vol. 6445, file, 881-10, part 5 (ICC Exhibit 1a, p. 759).

¹⁷⁹ Philip Phelan, Chief, Training Division, to G.C. Mortimer, Indian Agent, Hazelton, BC, November 17, 1938, LAC, RG10, vol. 6445, file 881-10, part 5 (ICC Exhibit 1a, p. 763).

¹⁸⁰ Philip Phelan, Chief, Training Division, to G.C. Mortimer, Indian Agent, Hazelton, BC, November 17, 1938, LAC, RG10, vol. 6445, file 881-10, part 5 (ICC Exhibit 1a, p. 763).

Otherwise it would mean depriving other children, perhaps, who have a legal right to be at the school, of some of the things that they need.¹⁸¹

The 1939-40 school year ended with 180 pupils enrolled. In his general report for the quarter ending June 30, 1940, Principal Simpson stated

it will be necessary to reduce the number of children for the next school year to about 150. Probably, no more children will be accepted from outside of the Stuart Lake Agency, except in the case of orphans or destitute children.¹⁸²

The Lejac school continued to receive admission applications from destitute or otherwise neglected children from the Babine and Stikine Indian Agencies.¹⁸³ Some years later, as many as 30 neglected and/or destitute children from the Stikine Agency were enrolled at Lejac.¹⁸⁴ By the end of the 1939-40 school year, the Lejac School was facing reduced funding while requests for admissions from the Stuart Lake Agency continued to be received.¹⁸⁵ As a possible remedy, the Indian Affairs Branch suggested that eligible students “be discharged and in this manner vacancies would be created for those actually in need.”¹⁸⁶

In September 1940, Reverend Principal Simpson reported that

¹⁸¹ Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to R.H. Moore, Indian Agent, October 28, 1938, LAC, RG10, vol. 6443, file 881-10, part 5 (ICC Exhibit 1a, p. 758).

¹⁸² Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to unknown recipient, June 30, 1940, LAC, RG10, vol. 6445, file, 881-1, part 2 (ICC Exhibit 1a, p. 889).

¹⁸³ S. Mallinson, Indian Agent, Babine Agency, to Secretary, Indian Affairs Branch, Department of Mines and Resources, February 10, 1941, LAC, RG 10, vol. 6445, file 881-10, part 5 (ICC Exhibit 1a, p. 948); Harper Reed, Indian Agent, Stikine, Telegraph Creek, BC, to Secretary, March 18, 1941, LAC, RG 10, vol. 6445, file 881-10, part 5 (ICC Exhibit 1a, p. 951).

¹⁸⁴ J.L. Coudert, OMI, Bishop of Whitehorse, Catholic Missions of the Yukon and Prince Rupert, to Hon. T.A. Crerar, Minister of Mines and Resources, October 10, 1944, BCA, Oblates of Mary Immaculate, St. Paul's Province, MS-1513, box 17, folder 19 (ICC Exhibit 1a, p. 1044).

¹⁸⁵ Philip Phelan, Chief, Training Division, to Robt. Howe, Indian Agent, July 30, 1940, LAC, RG 10, vol. 6445, file 881-10, part 5 (ICC Exhibit 1a, p. 893).

¹⁸⁶ Philip Phelan, Chief, Training Division, to Robt. Howe, Indian Agent, July 30, 1940, LAC, RG 10, vol. 6445, file 881-10, part 5 (ICC Exhibit 1a, p. 893).

Considerable difficulty has been experienced this year in bringing the children back to school. At the orders of the Department, we tried to have the parents bring their children at least part of the way into school; but they obstinately refused. Finally the services of the Mounted Police had to be requested. We are still about 30 children short of the desired number.¹⁸⁷

The 1943-44 school year began with “considerable reluctance on the part of the parents, to send their children back to school.”¹⁸⁸ In September of 1943, Indian Agent Howe reported that:

The 1943-44 term at the Lejac Indian Residential school opened September 2nd. I regret to advise that 85 pupils failed to return. It was necessary to prosecute Adanas Alexis, one of the Leading members of the Stony Creek Band under Section 10 of the Indian Act. This Indian not only refused to send his children to school, but counselled others to do likewise.

Rounding up the absentees entailed a considerable amount of work and expense. ... At the time of writing the school quota is complete.¹⁸⁹

An explanation for this reluctance came on October 18, 1943 when Chief Isadore of the Stella or Stellaquo Band (also in the Stuart Lake Agency) wrote from Fraser Lake to the Indian Affairs Branch complaining about the curriculum at Lejac. Chief Isadore wrote:

I am going to make remarks about Indian School at Lejac, directed under Oblate Fathers, the children are working on the farm and religious, instead of attending school, the Government is spending a large sum of money under Oblate Fathers scheme, the children should be educated and discipline like the public school.¹⁹⁰

Chief Isadore wrote again to the department on May 18, 1944. This time, Chief Isadore threatened a community-wide boycott of the school. He wrote:

¹⁸⁷ Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to unknown recipient, September 30, 1940, LAC, RG10, vol. 6445, file, 881-1, part 2 (ICC Exhibit 1a, p. 926).

¹⁸⁸ Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to unknown recipient, September 30, 1943, LAC, RG10, vol. 6445, file, 881-10, part 6 (ICC Exhibit 1a, p. 1024).

¹⁸⁹ R. Howe, Indian Agent, Stuart Lake Agency, to unknown recipient, September 1943, LAC, RG 10, vol. 6445, file 881-10, part 6 (ICC Exhibit 1a, p. 1023).

¹⁹⁰ Chief Isadore, Fraser Lake BC to Director, Indian Affairs Branch, October 18, 1943, LAC, RG 10, vol. 881-1, part 2 (ICC Exhibit 1a, p. 1027).

I wish to inform you about Indian Residential School at Lejack B.C., which every manager did unjustly in charge of that school ever since it was opened to the Indian children.

...

Ever since that school was opened, Indian boys were imposed to do mostly heavy work on farm. The little boys were carrying the heavy wood to the boiler engine and kitchen. Men, who were employed were not doing much.

Therefore we are decided that this coming July holiday, we will never allow any children to go back to school.

Before the school was built. The Priests requested to have a residential school there. We were not asked about it. And if we knew this school were going to be wrong. We would have been asked for a day school.¹⁹¹

Oblate officials largely discounted Chief Isadore's accusations. According to the OMI, "Chief Isadore's motive in writing this letter is a purely selfish one."¹⁹² Indian Agent Howe also dismissed Chief Isadore's complaints, saying "[a] number of older Indians do not realize the benefit and need of an education."¹⁹³

First Nations continued to state their complaints. In his report for the month of August, 1944, Indian Agent Howe noted that, before the start of the school year,

The Chiefs from Stony Creek, Fraser Lake, Necoslie and Stellaquo Bands called at the office on the 26th instant for a meeting in which several complaints were submitted in connection with the Lejac Indian Residential School and urgent requests were made for day schools to be established on the respective reserves.¹⁹⁴

¹⁹¹ Chief Isadore, Fraser Lake BC to Indian Department, May 18, 1944.3, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, pp. 1031-32).

¹⁹² Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to Howe, Indian Agent, June 13, 1944, LAC, RG 10, vol. 6445, file 881-1, part 2 (ICC Exhibit 1a, p. 1038) attached to R. Howe, Indian Agent, Stuart Lake Agency, to Indian Affairs Branch, Department of Mines and Resources, June 14, 1944, LAC, RG 10, vol. 6445, file 881-1, part 2 (ICC Exhibit 1a, p. 1037).

¹⁹³ R. Howe, Indian Agent, Stuart Lake Agency, to Indian Affairs Branch, Department of Mines and Resources, June 14, 1944, LAC, RG 10, vol. 6445, file 881-1, part 2 (ICC Exhibit 1a, p. 1037).

¹⁹⁴ R. Howe, Indian Agent, Stuart Lake Agency to unknown recipient, August 1944, LAC, RG 10, vol. 6445, file 881-1, part 2 (ICC Exhibit 1a, p. 1041).

At the Community Session, Elder Edgar Ketlo gave testimony describing his daily routine at Lejac. He stated:

[M]y day would start at four o'clock in the morning, probably, I remember that, with Brother Anderson, and we started the - - there's kitchen fires that was all the cooks stoves, so we had to start the fires early so that they'd be warm for the cooks when they came in around 6:00, probably. And then after that, we'd probably go have breakfast, then I'd go to work on the farm getting milk and cream for the - - separate milk from cream. They had a little workshop there. So that's what we did in the morning. I did, anyway in the morning.

And then I would spend one or two hours in the school. ... ¹⁹⁵

Elder George George Sr, gave testimony detailing the daily routine of a male student at Lejac. He stated,

We got up probably 6:30 in the morning, said our morning prayers, went to church probably about seven o'clock, attended mass, which lasts maybe half and hour, 45 minutes. We came out of church, went back down to the recreation hall, then we went for breakfast, said our prayers before breakfast. ... Said our prayers after breakfast, went back to recreation hall.

And we went to class about probably nine o'clock , got into class ... said our prayers, and about 10:00, 10:30 we used to have a break, a 10-, 15- minute break, said our prayers before we went, and then 15 minutes later we went back in there and said prayers again.

And before noon we'd say our prayers and leave class and then go the dining hall around noon ... say our prayers before food. We'd have our food and then we'd wash the dishes and stuff like that, say our prayers and then leave, and we'd have a break.

About one o'clock we'd go to work whatever - - whatever place, you know, like we'd bring boiler wood or go work on the farm, priggery, chicken house, garden in the summer, carpenter shop, ... do repairs on any repairs that need to be done. ...

We'd work until 3:00, 3:30, then we'd come in and go to class at four o'clock, say our prayers before going to class, go to class for an hour, have a little break, and then go to class until six o'clock. Six o'clock we'd go in for supper, say our prayers before supper, say our prayers after supper, and then go back to recreation room. ... until 8:00, 8:30, we'd go to our dormitories and say our prayers before bed and then go to sleep around... nine o'clock. ¹⁹⁶

¹⁹⁵ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 79, Edgar Ketlo).

¹⁹⁶ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, pp. 45-47, G. George Sr.).

In September 1944, Indian Agent Howe reported 80 absentees at the beginning of the 1944-45 school year.¹⁹⁷ Howe also reported that the absentees were eventually collected, bringing the school's total enrolment to 169 pupils, 9 pupils over the authorized number.¹⁹⁸

The Lejac School maintained high attendance levels despite the actions of parents in the Stuart Lake Agency. Pupils from other Indian agencies continued to be enrolled at the school, at times in higher numbers than in previous years.¹⁹⁹ In April of 1945, Stikine Indian Agent R.H.S Sampson admitted that “[d]uring recent months more parents have asked for admission of children to Lejac school but this is becoming unfair to the agencies near the school, which still have many children who could be admitted.”²⁰⁰ In July of that year, Stuart Lake Indian Agent Howe reported that “[d]ue to lack of accommodation, there are approximately 200 children in this agency not receiving education.”²⁰¹ Howe did not record the band affiliations of the 200 children. A report dated July 30, 1945, however, indicated that, of the 181 pupils enrolled at Lejac during the 1944-45 school year, 141 were from various First Nations within the Stuart Lake Agency.²⁰²

The Lejac school also began to house “indigent and neglected” pupils from various agencies over the summer months if they were orphans or their homes were considered to be too distant or

¹⁹⁷ R. Howe, Indian Agent, Stuart Lake Agency to unknown recipient, September 1944, LAC, RG 10, vol. 6443, file 881-10, part 7 (ICC Exhibit 1a, p. 1042).

¹⁹⁸ R. Howe, Indian Agent, Stuart Lake Agency to unknown recipient, September 1944, LAC, RG 10, vol. 6443, file 881-10, part 7 (ICC Exhibit 1a, p. 1042).

¹⁹⁹ Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to unknown recipient, March 31, 1945, LAC, RG 10, vol. 6445, file 881-10, part 7 (ICC Exhibit 1a, p. 1051); Stuart Lake Agency to D. M. MacKay, Indian Commissioner for BC, July 30, 1945, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1068); Indian Residential School Quarterly Returns, Records of Admission and Discharge of Pupils at Lejac Indian Residential School, 1938-53 and 1965 - 1972 , LAC, RG 10, vol. 6443, file 881-2, part 4; LAC, RG 10, vol. 6443, file 881-2, part 5; LAC, RG 10, vol. 6446, file 881-10, part 9; LAC, RG 10, vol. 6445, file 881-10, part 5; LAC, RG 10, vol. 6445, file 881-10, part 6; LAC, RG 10, vol. 6445, file 881-10, part 7; IRSR , file 965/25-2, vol. 4; IRSR, file 965/25-13, vol. 2; IRSR, file 965/23-26, vol. 5; IRSR, file 965/23-26, vol. 3 (ICC Exhibit 1c, p. 1-1004).

²⁰⁰ R.H.S. Sampson, Indian Agent, Stikine Agency, to unknown recipient, April 1, 1945, LAC, RG 10, vol. 6445, file 881-10, part 7 (ICC Exhibit 1a, p. 1052).

²⁰¹ R. Howe, Indian Agent, Stuart Lake Agency, to unknown recipient, July 9, 1945, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1066).

²⁰² Stuart Lake Agency, [author not identified further] to Major D.M. MacKay, Indian Commissioner for BC, July 30, 1945, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1068).

remote to warrant the cost of their return.²⁰³ In September of 1945, Principal Simpson reported, with respect to the Lejac School, that,

[a]t the time of writing there are 182 children in school. Although a number of the children who were present during the past school year have not returned we are already 22 over our allotted number of 160. Consequently, we are obliged to refuse admission to any more applicants, except, of course, for those who may be neglected or indigent.²⁰⁴

Parents in the Stuart Lake Agency continued their efforts to change the conditions and curriculum at Lejac. In September 1945, they contacted W. Irvine, Member of Parliament for Cariboo, and stated their concerns. Irvine, in turn, wrote to the department as follows:

I met a delegation of Indian representatives at Vanderhoof. I desire to place before you the burden of their plea.

1 - They protest that T.B. spreads rapidly amongst the children who attend the local school. ...

2 - They protest that education is neglected to make the school farm pay ...

3 - The Indians in question strongly urge that they be permitted to establish public schools for Indian children on the same basis as that of schools for white children.

4 - They want some assistance in clearing more land. ...

...

So far as I was able to investigate there seemed to be good cause for the unrest among the Indians.²⁰⁵

In response to Irvine's representations, the Indian Affairs Branch contacted Principal Simpson. On October 17, 1945, Simpson responded as follows:

²⁰³ Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to R. Howe, Indian Agent, June 22, 1945, LAC, RG 10, vol. 6445, file 881-10, part 7 (ICC Exhibit 1a, p. 1054).

²⁰⁴ Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School, to unidentified recipient, September 30, 1945, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1074).

²⁰⁵ W. Irvine, Member of Parliament (Cariboo), House of Commons, to T.R.L. MacInnes, Indian Affairs Branch, September 14, 1945, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1070-71).

1. 'Education is neglected to make the school farm pay.' The Department cannot be ignorant of the fact that some of the children do a certain amount of work on the farm, not only in this school but in every other school that I know of. This is supposed to be part of their training. As to making the school farm pay, every cent of revenue from the farm goes into the school funds; without this we could not operate the school. Our annual grant amounts to \$29,600, we have 188 children in school, so our per diem grant amounts to 43.1 cents per child. To feed and clothe a child on 43 cents per day is impossible.

If reference is made to my quarterly reports for the past year or so, you will find that I complain of the small number of boys who are old enough to be of assistance in the farm work.

2. 'The children learn only to pray and to milk cows.' ...

I think that the above complaint is groundless.²⁰⁶

This controversy prompted Indian Affairs to consider the state of the Lejac Indian Residential School as well as other Indian residential schools in British Columbia. On November 15, 1945, D.M. MacKay, Indian Commissioner of BC wrote:

[o]n July 30th last Mr. Howe wrote me reporting on the lack of school accommodation in his Agency, advising that there were in excess of two hundred children of school age for whom the necessary facilities were not available. Following receipt of the Agent's letter I wrote to him requesting that he make a survey of the situation supplying the necessary information in detail... .

Similar surveys have been made in the Kamloops, Williams Lake and Lytton Agencies in response to instructions issued from here and the information secured is being held for the immediate use of the Inspector of Schools... . The situation in these Agencies may be summarized as follows:

<u>Agency</u>	<u>Children of school age not attending school</u>	<u>Pre-school age children</u>
Kamloops	150	214
Lytton	47	79
Stuart Lake	249	358
Williams Lake	20	102 ²⁰⁷

²⁰⁶ Rev. Alex R. Simpson, OMI, Principal, Lejac Indian Residential School to Robert Howe, Indian Agent, October 17, 1945, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1077).

²⁰⁷ D.M. MacKay, Indian Commissioner for BC, Indian Affairs Branch, to Indian Affairs Branch, November 15, 1945, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1080). Underlining in original.

On January 7, 1946, Indian Agent Howe wrote to the Indian Affairs Branch, requesting that day schools be constructed “at Stony Creek IR and Necoslie IR to make accommodation at Lejac for underprivileged children from northern bands.”²⁰⁸ Howe also noted that the school had 192 students enrolled at that time.²⁰⁹ The Indian Commissioner for BC agreed that the Lejac Indian Residential School was not meeting the needs of the Stuart Lake Agency and the branch began to consider establishing day schools in the agency to accommodate the agency’s children.²¹⁰

The Stellaquo Band was not the only First Nation from the agency to object to the operations and curriculum of the Lejac Indian Residential School. In January 1946, the Nadleh Whut’en Indian Band submitted the following motion to the Indian Affairs Branch:

[a] meeting of the Fraser Lake Band of Indians at the Nautley Reserve, was held on January 5th 1946, and a motion was unanimously [sic] endorsed by all that a complaint was justified that when children were sick at the residential school at Le Jac, they were not kept separate from the other children. Also the school children were not allowed inside when the weather was cold, and we believe the educational system at Le Jac [sic] is not satisfactory. Therefore We the Fraser Lake Band of Indians are submitting an earnest request for a day school to be built on this reserve so that we can have our children at home and at the same time see that they get the best education possible, and able to compete in life with the white race in their future life.²¹¹

Truancy levels of Stuart Lake pupils remained high during the 1946-47 school year. Indian Agent Howe reported 100 absentees in September 1946.²¹² He also reported:

²⁰⁸ R. Howe, Indian Agent, Stuart Lake Agency, to unknown recipient, January 7, 1946, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1100).

²⁰⁹ R. Howe, Indian Agent, Stuart Lake Agency, to unknown recipient, January 7, 1946, LAC, RG 10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 1100).

²¹⁰ D.M. MacKay, Indian Commissioner for BC, Indian Affairs Branch, to Indian Affairs Branch, December 3, 1946, LAC, RG 10, vol. 6382, file 795-1, part 1 (ICC Exhibit 1a, p. 1162).

²¹¹ ‘Motion’ by Fraser Lake Band of Indians, Nautley Reserve, January 17, 1946, LAC, RG 10, vol. 6446, file 881-13, part 2 (ICC Exhibit 1a, p. 1113).

²¹² R. Howe, Indian Agent, Stuart Lake Agency, Indian Affairs Branch, to Indian Affairs Branch, September 12, 1946, LAC, RG10, vol. 6443, file, 881-1, part 2 (ICC Exhibit 1a, p. 1157).

[t]he Indians list a number of grievances, such as the time spent by pupils in manual labour, and religious instruction, and also, their desire for Day Schools, as reasons for keeping the children at Home. The antagonism and opposition displayed by the Indians towards the Lejac Residential School is more marked in recent months than at any time since I took over the Agency 8 years ago.

I have patiently discussed the situation with the Chiefs and Headmen of the Bands concerned and advised them that in all probability in the not too distant future, changes will take place, particularly in relation to education and establishment of Day Schools where practicable, and that they are defeating their own ends by their present attitude.

The Stony Creek Band, where there are 40 absentees are particularly adamant, and positively refuse to return the children to school. ...

In view of the determined attitude of the parents I feel that in order to ensure attendance at Lejac Residential School, action should be taken under the Truancy Section of the Indian Act. I have already served written notices on about 15 parents in accordance with Sec. 10, sub-sec. 3 of the Act, but before proceeding to issue summonses, I would like to have the Department's advice and approval.

I would strongly recommend that when the new School Inspector is appointed for B.C., that he meet the Chiefs and Headmen of this Agency to discuss and investigate their complaints at the first opportunity.²¹³

An analysis of available attendance and admission records indicates that between 1945, (when parental complaints were voiced and the boycott began), and 1950, 8 -18 children from the Nadleh Whut'en Band were enrolled at the Lejac Indian Residential School with an average attendance of approximately 207 students.²¹⁴

A report issued in October 1948 by Inspector Davey characterized the dormitories at Lejac as "definitely overcrowded" and suggested "the authorized enrolment ... should be only 150."²¹⁵ Davey supported the proposed construction of a day school at Fort St. James to alleviate the over-

²¹³ R. Howe, Indian Agent, Stuart Lake Agency, Indian Affairs Branch, to Indian Affairs Branch, September 12, 1946, LAC, RG10, vol. 6443, file, 881-1, part 2 (ICC Exhibit 1a, p. 1157).

²¹⁴ Indian Residential School Quarterly Returns, Records of Admission and Discharge of Pupils at Lejac Indian Residential School, 1938-53 and 1965 - 1972 , LAC, RG 10, vol. 6443, file 881-2, part 4; LAC, RG 10, vol. 6443, file 881-2, part 5; LAC, RG 10, vol. 6446, file 881-10, part 9; LAC, RG 10, vol. 6445, file 881-10, part 5; LAC, RG 10, vol. 6445, file 881-10, part 6; LAC, RG 10, vol. 6445, file 881-10, part 7; IRSR , file 965/25-2, vol. 4; IRSR, file 965/25-13, vol. 2; IRSR, file 965/23-26, vol. 5; IRSR, file 965/23-26, vol. 3 (ICC Exhibit 1c, p. 140-626).

²¹⁵ Extract of report by Inspector Davey to unidentified recipient, October 20-21, 1948, LAC, RG10, vol. 6445, file 881-5, part 9 (ICC Exhibit 1a, p. 1265).

crowded conditions at Lejac.²¹⁶ OMI officials, however, were not entirely supportive of the idea of building the Fort St. James day school. OMI official A. Jordan wrote to D.M. MacKay, Director of Indian Affairs and stated:

The enrollment [sic] at Lejac just now is 180. The number of pupils from Stuart Lakedistrict of which Fort St. James is the central mission is over 80 and this number includes boys and girls from the Fort itself (52), from Tachi (10), Portage (15), Trembleur Lake (4), Pinchi (1). It is only natural to suppose that parents from the other places will expect to send their children to Fort St. James... .

...

... Is it reasonable to suppose that the residential school can be successfully operated with a greatly reduced number of pupils? If it be answered that steps would be taken to make up for the withdrawal of the other children by bringing them in from places like Cheslatta, Takla, Fort Grahame, Ware, it seems pertinent to remark that the whole policy of the Department in recent years has been to avoid sending children hundreds of miles from home. It seems to me that if the problem of Indian education is adequately to be solved, a start might be made with outlying areas... where so many children are not getting schooling at all. To open a day school at Fort St. James is hardly fundamental to the problem; rather it seems the easiest of all possible steps that could have been taken... .²¹⁷

On June 17, 1954, the Lejac Indian Residential School was inspected by A. V. Parminter, Regional Inspector of Indian Schools in BC, after reports of overcrowded conditions and consequential enrolment issues were received from local church and department officials.²¹⁸

Parminter reported:

At the present time the Department operates Roman Catholic Day Schools at Moricetown, Fort Babine, Stoney Creek and Fort St. James, all within this general area, and a reasonable pupilage is enrolled at all of these. Moreover, on checking with the two Superintendents involved, I have been informed that no pupils of these villages who should actually be in Day Schools are enrolled in Residential Schools. Further, a number of pupils have been enrolled in Provincial schools in this area... .

²¹⁶ Extract of report by Inspector Davey to unidentified recipient, October 20-21, 1948, LAC, RG10, vol. 6445, file 881-5, part 9 (ICC Exhibit 1a, p. 1265).

²¹⁷ A. Jordan, OMI, Prince Rupert to Major D.M. MacKay, Director of Indian Affairs, April 29, 1949, LAC, RG10, vol. 6381, file 776-1, part 1 (ICC Exhibit 1a, p. 1291).

²¹⁸ A. V. Parminter, Regional Inspector of Indian Schools in BC, Indian Affairs Branch, to W.S. Arneil, June 17, 1954, LAC, RG 10, vol. 8708, file 965/6-1, part 3 (ICC Exhibit 1a, p. 1431).

In spite of full enrolment at our Indian Day Schools and the enrolment of some children in Provincial schools, the Lejac Residential School, which is equipped to accommodate comfortably 150 children, has been consistently housing over 180 pupils.

This problem has probably not been heretofore noted as acute because of a long standing reticence on the part of some of the Indian parents to send their children to the school at Lejac, because interest of those people in education is only now in the process of development and because of the remote nature of the localities involved.

From an examination of Agency census lists and discussion with Superintendent Howe and his Assistant, Mr. Gallagher,... I am convinced that there are close to 100 children in the Agency not receiving schooling.²¹⁹

Attached to Inspector Parminter's report is a chart detailing the "projected school-age population" for the Fort Fraser Band, which projected that the Fort Fraser Band would have 32 school-aged children, (ages seven through 16), during the 1954-55, 1955-56, and 1956-57 school years; 35 during the 1957-58; 33 during the 1958-59 school year; 36 during the 1959-60 school year and 34 during the 1960-61 school year.²²⁰

Parminter supported a proposal to construct a three-room school house on Lejac Indian Residential School grounds to operate as a day school, and cited several advantages to that plan, which he outlined as follows:

1. The present overcrowding in the four classrooms will be alleviated.
2. A number of children will be able to live with their parents.
3. Three of the seven classrooms will be adequate for present day educational needs.
4. Space will be created in the Lejac dormitories for children who are at present not able to attend school.²²¹

²¹⁹ A. V. Parminter, Inspector of Indian Schools in BC, Indian Affairs Branch, to W.S. Arneil, June 17, 1954, LAC, RG 10, vol. 8708, file 965/6-1, part 3 (ICC Exhibit 1a, pp. 1431-32).

²²⁰ Attachment 2 - A. V. Parminter, Inspector of Indian Schools in BC, Indian Affairs Branch, to W.S. Arneil, June 17, 1954, LAC, RG 10, vol. 8708, file 965/6-1, part 3 (ICC Exhibit 1a, p. 1435).

²²¹ A. V. Parminter, Inspector of Indian Schools in BC, Indian Affairs Branch, to W.S. Arneil, June 17, 1954, LAC, RG 10, vol. 8708, file 965/6-1, part 3 (ICC Exhibit 1a, p. 1432).

According to Inspector Parminter, the proposed Lejac day school would serve “43 Day scholars” while the residential school would continue to operate at an enrolment of 181 residential pupils, allowing a total 224 children to be educated in the Stuart Lake Agency.²²² Authorization for the construction of the three-room day school came on June 24, 1954 from R.F. Davey, Superintendent of Education.²²³

Once the day school was opened at Lejac, very few students from the Nadleh Whut’*en* Indian Band were enrolled as residential students. Records from June 1957 indicate that 30 children from the Nadleh Whut’*en* Indian Band were attending the “Indian Day School” and none were enrolled as residential students.²²⁴ Furthermore, 151 children from other First Nations within the Stuart Lake Agency were attending residential school and 24 children were attending provincial schools.²²⁵ In February 1958, Principal Kelly reported that 174 students were receiving residential education at Lejac.²²⁶

The Agency Return regarding school aged children for the quarter ending January 1, 1959 identified 35 children from Nadleh Whut’*en* as school age (6-16 years old) and 30 of those 35 children were enrolled in “other schools”.²²⁷ The Agency Return regarding school aged children for quarter ending January 1, 1960 identified 24 children from the Nadleh Whut’*en* Band as being of school age, of which 19 were attending “non-Indian school”.²²⁸

²²² A. V. Parminter, Inspector of Indian Schools in BC, Indian Affairs Branch, to W.S. Arneil, June 17, 1954, LAC, RG 10, vol. 8708, file 965/6-1, part 3 (ICC Exhibit 1a, p. 1433).

²²³ R. F. Davey, Superintendent of Education, Indian Affairs Branch, to Chief Engineering & Construction Service, June 24, 1954, LAC, RG 10, vol. 8708, file 965/6-1, part 3 (ICC Exhibit 1a, p. 1443).

²²⁴ Agency Return on Pre-School and School Age Children as of June 30, 1957, Stuart Lake Agency, E. J. Underwood, Superintendent, unknown date, no file reference available (ICC Exhibit 1c, p. 796).

²²⁵ Agency Return on Pre-School and School Age Children as of June 30, 1957, Stuart Lake Agency, E. J. Underwood, Superintendent, unknown date, no file reference available (ICC Exhibit 1c, p. 796).

²²⁶ G.F. Kelly, OMI, Principal, Lejac Residential School, to W.S. Arneil, Commissioner, Indian Affairs Branch, February 17, 1958, LAC, RG 10, vol. 8709, file 965/6-1, part 5 (ICC Exhibit 1a, p. 1518).

²²⁷ Agency Return on Pre-School and School Age Children as of January 1, 1959, Stuart Lake Agency, W. E. Grant Superintendent, unknown date, no file reference available (ICC Exhibit 1c, p. 805).

²²⁸ Agency Return on Pre-School and School Age Children as of January 1, 1960, Stuart Lake Agency, W. E. Grant Superintendent, unknown date, no file reference available (ICC Exhibit 1c, p. 813).

In September 1962, the Indian Affairs Branch and the OMI negotiated a new agreement which provided the branch greater control over the management of the Lejac Indian Residential School, including principalship, admissions, inspections and general rules of operation.²²⁹ Two months later, the Stuart Lake Agency Return identified 31 children of school age, of which 4 were “day pupils”, 3 were “res. pupils”, and 21 were attending “non-Indian schools”.²³⁰

Between 1965 and 1970, approximately 40-50 children per year were enrolled as day pupils at the Lejac School.²³¹ The record of this inquiry suggests that some children from the Nadleh Whut'en Band were enrolled during this time since records indicate that transportation from IR 1 to the school was provided.²³² The quarterly returns of government-owned residential schools do not identify band affiliation for day pupils.

During the 1960s, the Department of Indian Affairs reevaluated its residential school policy. The department had been experimenting with the integration of local Lejac students in “non-Indian schools” (provincial parochial schools) and opening or reopening religious day schools in the area.²³³ Under the new education philosophy of the branch, residential schools were discouraged. Some began to operate as student residences, “providing a well-rounded home and community environment”, rather than as educational institutions.²³⁴ The documentary record indicates, however,

²²⁹ “Agreement for the Operation of the Lejac Indian Residential School”, September 25, 1962, BAC, Oblates of Mary Immaculate, St. Paul's Province, MS-1513, box 17, folder 17(ICC Exhibit 1a, p. 1702-07).

²³⁰ Agency Return on Pre-School and School Age Children as of November 1, 1962, Stuart Lake Agency, unknown date, no file reference available (ICC Exhibit 1c, p. 817).

²³¹ Quarterly Return - Government-Owned Residential Schools, 1965-70, IRSR, file 965/23-26, vol 3; IRSR, file 965/25-2, vol. 3; IRSR, file 965/25-2, vol. 4; INAC, Government Records Branch, Vancouver, file 901/23-16, vol. 2; IRSR, file 965/25-13, vol. 2 (ICC Exhibit 1c, p. 818-952).

²³² D.R. Urquhart, to Zone Director, Miller Bay Zone, October 28, 1969, LAC, Government Records Branch, Vancouver, file 965/6-1-012, vol. 3 (ICC Exhibit 1a, p. 2172).

²³³ Ellen L. Fairclough, Minister, [Department of Citizenship and Immigration,], to Right Rev. J.F. O'Grady, OMI, Bishop of Prince Rupert, October 26, 1959, LAC, RG 10, vol. 8709, file 965/6-1, part 9 (ICC Exhibit 1a, p. 1624); A.V. Parminter, Regional Superintendent of Indian Schools for BC, to Indian Affairs Branch, May 14, 1960, LAC, RG 10, vol. 8710, file 965/6-1, part 10 (ICC Exhibit 1a, pp. 1640-41).

²³⁴ Admissions Policy for Indian Student Residences, June 1969, attached to memo from W.E. Armstrong, Director, Operations Branch, Social Affairs Program, Department of Indian Affairs and Northern Development, to Chiefs, Band Councils, Regional Directors and Superintendents of Indian Agencies, June 9, 1969, IRSR, file 965/25-1, vol. 1 (ICC Exhibit 1a, p. 2087).

that Lejac continued to operate as a school despite it being referred to as a residence rather than a residential school in correspondence.

In 1969, a new admissions policy was conceived by the department. The new policy outlined six categories under which the personal circumstances of prospective students would be assessed and their placement approved or denied.²³⁵ For example, category one students were eligible for residence because their “home is isolated and removed from day school service.”²³⁶ Category two students were eligible because their “[p]arent or guardians are migratory.”²³⁷ An advisory committee, made up of parents, band council members, and department officials, among others, was charged with advising the department regarding admission and “preferred alternatives to institutional placement.”²³⁸ Parental or guardian consent was mandatory for the admission of students to the residences.²³⁹

On April 1, 1969, the Department assumed operational control of the Lejac School.²⁴⁰ On the same day, the Fraser Lake Indian Band issued a Band Council Resolution giving notice that the Band

²³⁵ Admissions Policy for Indian Student Residences, June 1969, attached to memo from W.E. Armstrong, Director, Operations Branch, Social Affairs Program, Department of Indian Affairs and Northern Development, to Chiefs, Band Councils, Regional Directors and Superintendents of Indian Agencies, June 9, 1969, IRSR, file 965/25-1, vol. 1 (ICC Exhibit 1a, p. 2088).

²³⁶ Admissions Policy for Indian Student Residences, June 1969, attached to memo from W.E. Armstrong, Director, Operations Branch, Social Affairs Program, Department of Indian Affairs and Northern Development, to Chiefs, Band Councils, Regional Directors and Superintendents of Indian Agencies, June 9, 1969, IRSR, file 965/25-1, vol. 1 (ICC Exhibit 1a, p. 2088).

²³⁷ Admissions Policy for Indian Student Residences, June 1969, attached to memo from W.E. Armstrong, Director, Operations Branch, Social Affairs Program, Department of Indian Affairs and Northern Development, to Chiefs, Band Councils, Regional Directors and Superintendents of Indian Agencies, June 9, 1969, IRSR, file 965/25-1, vol. 1 (ICC Exhibit 1a, p. 2088).

²³⁸ Admissions Policy for Indian Student Residences, June 1969, attached to memo from W.E. Armstrong, Director, Operations Branch, Social Affairs Program, Department of Indian Affairs and Northern Development, to Chiefs, Band Councils, Regional Directors and Superintendents of Indian Agencies, June 9, 1969, IRSR, file 965/25-1, vol. 1 (ICC Exhibit 1a, p. 2087).

²³⁹ Admissions Policy for Indian Student Residences, June 1969, attached to memo from W.E. Armstrong, Director, Operations Branch, Social Affairs Program, Department of Indian Affairs and Northern Development, to Chiefs, Band Councils, Regional Directors and Superintendents of Indian Agencies, June 9, 1969, IRSR, file 965/25-1, vol. 1 (ICC Exhibit 1a, p. 2086).

²⁴⁰ G. Cromb, Director, Education Branch, to M. Blanchard, Head, Secretariat, Indian-Eskimo Bureau, October 14, 1970, INAC, MRO, file 965/36-4, vol. 2 (ICC Exhibit 1a, p. 2211).

intended to reassume “for their own use and benefit all farm land and unimproved areas of the Seaspunket [sic] IR No. 4 no longer used by the Lejac Indian Residential School”.²⁴¹

On September 28, 1970, Chief Peter George of the Nadleh Whut'en Indian Band wrote to the Minister of Indian Affairs explaining that the Lejac Indian Residential School and the land set aside for it was not, in his opinion, being used for the purpose for which the Band had authorized; namely, to educate children from the Nadleh Whut'en Indian Band. Chief George requested that the department pay a yearly rental to the Band for the use of the land as well as \$17,600.00 to cover lost revenue covering the years 1958-68 when the OMI operated the farm on school lands.²⁴² The department concluded that no clause in the original agreement (i.e. the April 12, 1921, Band Council Resolution) specified that compensation would be paid to the First Nation for the use of the land.²⁴³ On October 26, 1970, J.D. Bergevin, the Assistant Deputy Minister of Indian Affairs, wrote to Chief Peter George, saying,

[w]ith regard to the transfer of the land to this Department for residential school purposes in 1921, there was nothing in the original agreement which specified that the Department would pay the Indian Band for the use of the land. Presumably the advantages to the Band of having their children accommodated at the residence were considered to be fair compensation for the use of the property.

...

We would consider transferring the farm lands at the Residence back to your Band, with this Department retaining only that relatively small amount of land required for the residence and playground area. However, we do not feel that the Department should pay rent for the school properties located on Indian lands. After all, they are there to provide services to the Indian people.²⁴⁴

²⁴¹ Band Council Resolution, Fraser Lake Band, Stuart Lake Agency, April 1, 1969, INAC, British Columbia Regional Office, file 965/36-4-012, vol. 1 (ICC Exhibit 1a, p. 2051).

²⁴² Chief Peter George, Fraser Lake Band, to Hon. Jean Chretien, Minister, Department of Indian Affairs and Northern Development, September 28, 1970, INAC, British Columbia Regional Office, file 965/36-4-012, vol. 1 (ICC Exhibit 1a, p. 2210).

²⁴³ G. Cromb, Director, Education Branch, to M. Blanchard, Head, Secretariat, Indian-Eskimo Bureau, October 14, 1970, INAC, MRO, file 965/36-4, vol. 2 (ICC Exhibit 1a, p. 2212).

²⁴⁴ J.B. Bergevin, Assistant Deputy Minister, (Indian and Eskimo Affairs), Department of Indian Affairs and Northern Development to Chief Peter George, Fort Fraser, October 26, 1970, INAC, British Columbia Regional Office, file 965/36-4-012, vol. 1; INAC, British Columbia Regional Office, file E5600-7-612-07472, vol. 2 (ICC Exhibit 1a, pp. 2230-31).

In September of 1974, the Nadleh Whut'en Band Council passed a Band Council Resolution requesting the reversion to the Band of all lands not required for the operation of the student residence.²⁴⁵ In December of that year, the Lakes District Council, (formerly the Stuart Lake Agency), unanimously passed two Resolutions regarding the fate of the Lejac Indian Residential School. The first Resolution set out the Chiefs' vision of the school, stating,

WHEREAS Lejac Residential School serves the Lakes District in a very real way academically as well as socially

and

WHEREAS the need for such an institution as the Lejac Residential School will not cease in the near future

therefore

BE IT RESOLVED THAT the Department of Indian Affairs recognize this fact and plan for the continued existence of the Lejac Student Residence for at least ten years.²⁴⁶

The second Resolution set out the condition upon which the school should operate for the next ten years, stating,

WHEREAS Lejac Residential School does not provide academic facilities diverse enough to cater to the complete needs of an Indian child, for example; shop, gymnasium, library, etcetera

and

WHEREAS Lejac Residential School is too insulated from the outside world to provide realistic, practical and first-hand education to an Indian child

and

WHEREAS Lejac Student Residential School does not provide and cannot provide a real world standard towards which an Indian child can strive,

therefore

²⁴⁵ Band Council Resolution, Fraser Lake Band, September 19, 1974, INAC, British Columbia Regional Office, file 965/36-4-012, vol. 1 (ICC Exhibit 1a, p. 2373).

²⁴⁶ V.E. Rhymer, District Supervisor, Lakes District, Indian and Northern Affairs, to L.E. Wight, Regional Director, British Columbia Region, December 10, 1974, LAC, Government Records Branch, Vancouver, file 965/1-13, vol. 1 (ICC Exhibit 1a, p. 2377).

BE IT RESOLVED THAT as of September, 1975, Lejac Residential School be a residence with the children being bussed to a local school.²⁴⁷

The evidentiary record of this inquiry indicates that the Lejac Indian Residential School ceased to operate as a school in 1975. While the Lejac dormitories continued to be used as a residence for First Nation children²⁴⁸, those students began to attend Fraser Lake Public School, which operated within the provincial education system.²⁴⁹ On June 30, 1976, the Lejac Student Residence was closed and IR 4 was no longer used for school purposes.²⁵⁰

On July 2, 1976 it was reported that “fifteen youth from the Stellaquo (Stella) and Fraser Lake Bands have barricaded the gate off the highway into Lejac Residence. ... The motive is to prevent the removal of any asset from the Residence.”²⁵¹ On July 30, 1976, the Nadleh Whut'en Indian Band passed two Band Council Resolutions requesting “[that] the land and buildings held by the Crown for the Student Residence at Lejac be turned over to our Band”²⁵² and “[that] the inventory and non-inventory item at the Lejac Student Residence be turned over to our Band.”²⁵³ In August of 1976, the Nadleh Whut'en Band passed another Band Council Resolution which stated that the Nadleh Whut'en Band was willing to accept the buildings, improvements, inventory and non-inventory items of the Lejac School and accept responsibility for all future maintenance and

²⁴⁷ V.E. Rhymer, District Supervisor, Lakes District, Indian and Northern Affairs, to L.E. Wight, Regional Director, British Columbia Region, December 10, 1974, LAC, Government Records Branch, Vancouver, file 965/1-13, vol. 1 (ICC Exhibit 1a, pp. 2377-78).

²⁴⁸ Larry Wright, Regional Director, British Columbia Region, to District Supervisor, Lakes District, January 17, 1975, LAC, Government Records Branch, Vancouver, file 965/1-13, vol. 1 (ICC Exhibit 1a, p. 2400).

²⁴⁹ A. R. Buffet, Superintendent of Education, Lakes District, Indian and Northern Affairs, to A/Assist. Regional Director, Education, British Columbia Region, September 30, 1975, LAC, Government Records Branch, Vancouver, file 965/1-13, vol. 1 (ICC Exhibit 1a, p. 2403).

²⁵⁰ A.H. Friesen, Assistant Regional Director, Education, Indian and Northern Affairs, to E. Korchinski, Acting Director, Education-Operations, July 9, 1976, IRSR, file E4965-1283, vol. 1, (ICC Exhibit 1a, p. 2413).

²⁵¹ J.L. Homan, District Manager, Prince George District, to Director General, British Columbia Region, July 2, 1976, IRSR, file E4965-1283, vol. 1, (ICC Exhibit 1a, p. 2412).

²⁵² Band Council Resolution, Fraser Lake Band, July 30, 1976, INAC, British Columbia Regional Office, file 985/6-1-012 (ICC Exhibit 1a, p. 2419).

²⁵³ Band Council Resolution, Fraser Lake Band, July 30, 1976, IRSR, file E4965-1283, vol. 1, (ICC Exhibit 1a, p. 2417).

repairs.²⁵⁴ Those assets were transferred to the Nadleh Whut'en Indian Band on November 24, 1976, at no cost, "conditional upon acceptance in an 'as is' state with no further maintenance responsibility to the Department of Indian Affairs and Northern Development."²⁵⁵

CONSTRUCTION AND USE OF THE SEWAGE LAGOON

Initially, sewage disposal at the Lejac Indian Residential School and its outbuildings was achieved through a septic tank system whereby effluent was discharged into the ground "in a bed of natural gravel."²⁵⁶ On October 9, 1924, the school's engineer, H. Allen, reported to Reverend Father Plamondon that he had "inspected the Septic Tank, and find it in first class condition".²⁵⁷ By the 1930s, however, the septic system was in a state of disrepair. On April 16, 1937, Principal Byrne-Grant reported:

As the overflow from the szeptictank [sic], which is not functioning well, drains in the direction of the pump house and as the surface soil in the vicinity of the pump house is exposed to contamination from various sources, I think it my duty to point out that under present conditions, the water supplied to the school cannot be considered safe... .

... I understand that the big trouble in connection with the szeptic [sic] tank is that no provision was made for a separate outlet from the laundry and the kitchen, with the result that the [soaps] and fats going into the szeptic tank as well as the heavy flow of water from the laundry, prevent the normal functioning of the tank, with the resulting contamination of the field below and the foul smell which comes from the tank. I believe that it has been suggested that there would be no trouble from the tank if it were cleaned out at regular intervals, but experience has proven that this is not the case and the only rmeedy [sic] seems to be to have a separate outlet from the laundry. I do not know whether the foul odors [sic] from the tank are dangerous as far as the health of the children is concerned. The boy's [sic] playground is near

²⁵⁴ Band Council Resolution , Fraser Lake Band, August 25, 1976, IRSR, file 1/25-13, vol. 12, (ICC Exhibit 1a, p. 2422).

²⁵⁵ [illegible signature], A/Regional Director, Indian and Eskimo Affairs, BC Region, November 24, 1976, INAC, British Columbia Regional Office, file 985/6-1-012 (ICC Exhibit 1a, p. 2424).

²⁵⁶ H. Allen, Engineer, OMI, Industrial School, to Rev. Father Plamondon,,October 9, 1924, LAC, RG 10, vol. 6444, file 881-5, part 3 (ICC Exhibit 1a, p. 401).

²⁵⁷ H. Allen, Engineer, OMI, Industrial School, to Rev. Father Plamondon, October 9, 1924, LAC, RG 10, vol. 6444, file 881-5, part 3 (ICC Exhibit 1a, p. 401).

the tank, and they are constantly breathing the contaminated air, and on certain days when there is little wind the whole grounds and even the interior of the school is affected [sic] by odors [sic].²⁵⁸

Between the years 1939 and 1943, numerous attempts were made by the department to identify and repair problems with the septic tank. None of those attempts, however, provided a permanent solution to the problems.²⁵⁹

On March 11, 1959, V.G. Ulrich, Civil Engineer, Indian Affairs Branch, submitted a memorandum to Indian Commissioner Arneil regarding what Ulrich characterised as the “public health hazard”²⁶⁰ created by the Lejac School’s septic system. Ulrich wrote:

Sewage treatment and disposal was originally designed to be by septic tank and tile field. However, as the top soil horizon in the area is a tight, dense clay, the tile field failed to perform and was abandoned. The septic tank effluent was simply piped away from the septic tank in a Westerly direction and disposed of in a field without further treatment.

...

It is apparent that the tank is only one third as large as it should be or is equal in volume to a 12 hour sewage flow, but allows no sludge storage.

...

It is undesirable however, to have raw undiluted septic tank effluent flowing anywhere near the school. Not only is it likely to cause an odour problem, but it is

²⁵⁸ Rev. W. Byrne-Grant, OMI, Principal, Lejac Indian Residential School, to R.H. Moore, Indian Agent, April 16, 1937, LAC, RG10, vol. 6444, file 881-5, part 5 (ICC Exhibit 1a, p. 619-20).

²⁵⁹ D.M. MacKay, Indian Commissioner for BC, Indian Affairs Branch, to Secretary, Indian Affairs, November 10, 1939, LAC, RG 10, vol. 6444, file 881-5, part 6 (ICC Exhibit 1a, p. 791); Report of W.V. McDonald, Dominion Water Power and Hydrometric Bureau, Department of the Interior to C.E. Webb, District Chief Engineer, Dominion Water Power and Hydrometric Bureau, January 24, 1940, LAC, RG 10, vol. 6444, file 881-5, part 6 (ICC Exhibit 1a, p. 815-29); R. A. Hoey, Supt. of Welfare & Training, to Robt. Howe, Indian Agent, May 22, 1940, LAC, RG 10, vol. 6444, file 881-5, part 6 (ICC Exhibit 1a, p. 884); Robt. Howe, Indian Agent, Stuart Lake Agency, to unknown recipient, August 6, 1940, LAC, RG 10, vol. 6444, file 881-5, part 6 (ICC Exhibit 1a, p. 894); R. Howe, Indian Agent, Stuart Lake Agency, to Major D. M. MacKay, Indian Commissioner, May 29, 1943, LAC, RG 10, vol. 6502, file IND 13-1-72 (ICC Exhibit 1a, p. 995); Harold W. McGill, Director, Indian Affairs Branch, to Director, Surveys & Engineering Branch, June 4, 1943, LAC, RG 10, vol. 6502, file IND13-1-72 (ICC Exhibit 1a, p. 998-99); Report of W.C. Warren, Assist. Hydraulic Engineer, to unknown recipient, June 21, 1943, LAC, RG 10, vol. 6502, file IND 13-1-72 (ICC Exhibit 1a, p. 1002-05).

²⁶⁰ V.G. Ulrich, C.E., Indian Affairs Branch, to W. S. Arneil, Indian Commissioner for BC, March 11, 1959, LAC, RG 10, vol. 8709, file 965/6-1, part 7 (ICC Exhibit 1a, p. 1580).

also an attraction for flies. These in turn act as carriers for any pathogenic germs or organisms which may, from time to time be present in the sewage.

Furthermore, as the overload on the tank increases, an excessive solids carry-over and a resultant lower grade of sewage reaching the lake may be expected. This would increase the threat to the water supply.²⁶¹

Ulrich recommended that a sewage lagoon be constructed at the school, “[w]est of the present buildings and overlooking the [Fraser] lake, on property already owned by the school.”²⁶² Ulrich explained that “as ‘lagooning’ consists of both primary and secondary treatment, the public health hazard and the threat to the water supply would be materially reduced.”²⁶³ Ulrich’s recommendation was supported by Commissioner Arneil, subject to available funding.²⁶⁴

Construction of the sewage lagoon began in August 1959 and progressed into the winter.²⁶⁵ According to the proposed plan, construction of the lagoon required the excavation of 1.36 acres of surface area.²⁶⁶ In December of 1959 it was reported that construction of the lagoon would be completed the following season.²⁶⁷

On December 2, 1964, J.S. Wishart, District Engineer, filed an inspection report concerning the lagoon, in which he stated,

²⁶¹ V.G. Ulrich, C.E., Indian Affairs Branch, to W. S. Arneil, Indian Commissioner for BC, March 11, 1959, LAC, RG 10, vol. 8709, file 965/6-1, part 7 (ICC Exhibit 1a, pp. 1577-78).

²⁶² V.G. Ulrich, C.E., Indian Affairs Branch, to W. S. Arneil, Indian Commissioner for BC, March 11, 1959, LAC, RG 10, vol. 8709, file 965/6-1, part 7 (ICC Exhibit 1a, p. 1579).

²⁶³ V.G. Ulrich, C.E., Indian Affairs Branch, to W. S. Arneil, Indian Commissioner for BC, March 11, 1959, LAC, RG 10, vol. 8709, file 965/6-1, part 7 (ICC Exhibit 1a, p. 1579).

²⁶⁴ W. S. Arneil, Indian Commissioner for BC, Regional Office, to Indian Affairs Branch, March 12, 1959, RG 10, vol. 8709, file 965/6-1, part 7 (ICC Exhibit 1a, p. 1592).

²⁶⁵ W.M. Watkins, Indian Affairs Branch, to W. S. Arneil, Indian Commissioner for BC, December 29, 1959, LAC, RG 10, vol. 8710, file 965/6-1, part 10 (ICC Exhibit 1a, p. 1627).

²⁶⁶ W.M. Watkins, Indian Affairs Branch, Department of Citizenship and Immigration, to W. S. Arneil, Indian Commissioner for BC, December 29, 1959, LAC, RG 10, vol. 8710, file 965/6-1, part 10 (ICC Exhibit 1a, p. 1627).

²⁶⁷ W.M. Watkins, Indian Affairs Branch, Department of Citizenship and Immigration, to W. S. Arneil, Indian Commissioner for BC, December 29, 1959, LAC, RG 10, vol. 8710, file 965/6-1, part 10 (ICC Exhibit 1a, p. 1628).

2. At the time of the visit the writer walked in bright sun shine round the lagoon to the outfall....The lagoon was overflowing to the ditch and effluent was tending to pond long the C.N.R. embankment. There was no odour from the pond or the effluent.
3. The existing water supply system is not satisfactory from a health standpoint for the following reasons:-
 - a. The supply is taken directly from a lake which is subject to pollution from farm land drainage and to seasonal local pollution, by effluent from the school's sewage lagoon via a nearby C.N.R. culvert.... and by boating and swimming activities by the school pupils at the recreation float adjacent to the water intake.
 - b. The water is not disinfected.
4. It is recommended therefore, that the water supply be chlorinated. ...²⁶⁸

In July of 1966, the sewage lagoon was inspected again by T.J. Tevendale, Engineer, Department of National Health and Welfare. Tevendale noted that the lagoon constituted "a definite hazard to the residential school water supply."²⁶⁹ As a result, Tevendale recommended chlorination of the school's water supply begin as soon as practicable.²⁷⁰

The sewage lagoon continued to be problematic into 1967. Band members living on Lot 2 of the western portion of Seaspunkut IR 4 began to complain about the negative effects the lagoon had on their occupation of the land. The George family had been living on the western portion of IR 4 since 1949, some ten years before the lagoon was built approximately 400 feet from their home.²⁷¹

²⁶⁸ J.S. Wishart, District Engineer, Public Health Engineering Div., Department of National Health and Welfare, to W.G. Robinson, P. Eng., [Office of] Indian Commissioner for BC, December 2, 1964, LAC, Government Records Branch, File 965/6-1-012, vol. 2 (ICC Exhibit 1a, p. 1772).

²⁶⁹ T.J. Tevendale, Engineer, Public Health Engineering Div., Department of National Health and Welfare, to W.G. Robinson, P. Eng., [Office of] Indian Commissioner for BC, July 26, 1966, LAC, Government Records Branch, Vancouver, file 965/6-1-012, vol. 1 (ICC Exhibit 1a, p. 1820).

²⁷⁰ T.J. Tevendale, Engineer, Public Health Engineering Div., Department of National Health and Welfare, to W.G. Robinson, P. Eng., [Office of] Indian Commissioner for BC, July 26, 1966, LAC, Government Records Branch, Vancouver, file 965/6-1-012, vol. 1 (ICC Exhibit 1a, p. 1820).

²⁷¹ Agnes P. George, to Department of Indian Affairs, December 5, 1967, LAC, Government Records Branch, Vancouver, file 965/6-1-012, vol. 1 (ICC Exhibit 1a, p. 1945). The George family were the recognized occupiers of Lot 2, 3, and 4 of IR 4. See: Band Council Resolution, Fraser Lake Band of Indians, February 10, 1958, INAC, British Columbia Regional Office, file ES630-07472-2, vol. 1 (ICC Exhibit 1a, p. 1515).

On May 21, 1967, Agnes George wrote to Stuart Lake Indian Agent A.C. Roach, complaining of the odour emanating from the lagoon.²⁷²

In June of 1967, the branch conceded that the lagoon was posing “a very real problem” for the George family.²⁷³ In March of 1968, it was recommended that the George family be paid \$16,000.00 to relocate their home and other buildings within two years.²⁷⁴ A Quit Claim of rights to land in Lot 2 of IR 4 was signed by Patrick George on February 24, 1969.²⁷⁵

In March of 1969, the Nadleh Whut’en Indian Band passed a Band Council Resolution assigning approximately 12.9 acres of Lot 2 to the branch for “an indefinite period.”²⁷⁶ The BCR provided that the Indian Affairs Branch would allow the land to be used “by written permission”.²⁷⁷ The Band Council Resolution and Quit Claim were approved in April of 1969.²⁷⁸

Meanwhile, the lagoon continued to be troublesome. In July of 1969, the lagoon was inspected again by an engineer from the branch, who determined that it had caused “severe pollution of the [Fraser] lake”.²⁷⁹

²⁷² Agnes George to C.A. [sic] Roach, Stuart Lake Agency, May 21, 1967, INAC, British Columbia Regional Office, file E5630-07472-2, vol. 1 (ICC Exhibit 1a, p. 1871).

²⁷³ W.G. Robinson, BC Regional Engineer, to Regional Superintendent (Development) and Regional Superintendent (Education), June 1, 1967, LAC, Government Records Branch, Vancouver, file 965/6-1-012, vol. 1 (ICC Exhibit 1a, p. 1873).

²⁷⁴ G.S. Boyle, A/Regional Engineer, to Regional Superintendent (Development), March 6, 1968, LAC, Government Records Branch, Vancouver, file 965/6-1-012, vol. 1 (ICC Exhibit 1a, p. 1966); See also: “Sketch of Property and Buildings” owned by Patrick George on Seaspunkt IR 4, prepared by Patrick L. George, February 21, 1965, INAC, British Columbia Regional Office, file E5630-07472-2, vol. 1 (ICC Exhibit 7v and ICC Exhibit 1a, p. 1968).

²⁷⁵ Quit Claim of Patrick Louis George, February 24, 1969, INAC, British Columbia Regional Office, file E5630-07472-2, vol. 1 (ICC Exhibit 1a, p. 2043).

²⁷⁶ Band Council Resolution, Fraser Lake Band, March 13, 1969, INAC, British Columbia Regional Office, file E5630-07472-2, vol. 1 (ICC Exhibit 1a, p. 2047).

²⁷⁷ Band Council Resolution, Fraser Lake Band, March 13, 1969, INAC, British Columbia Regional Office, file E5630-07472-2, vol. 1 (ICC Exhibit 1a, p. 2047).

²⁷⁸ H.T. Vergette, Head, Land Titles Section, to Superintendent, Stuart Lake Agency, April 10, 1969, INAC, British Columbia Regional Office, file E5630-07472-2, vol. 1 (ICC Exhibit 1a, p. 2053).

²⁷⁹ W. G. Robinson, BC Regional Engineer, to Regional Superintendent (Education), July 28, 1969, LAC, Government Records Branch, Vancouver, file 965/6-1-012, vol. 3 (ICC Exhibit 1a, p. 2135).

As mentioned earlier, IR 4 ceased to be used for school purposes in 1976. The eastern portion of IR 4 and the assets thereon reverted to the First Nation in 1976. In 1989, the Nadleh Whut'en Band formally requested the return of Lot 2 of IR 4, which the George family had been forced to vacate and which had subsequently been assigned to the branch on a temporary basis.²⁸⁰ In 1990, however, it was decided that an environmental screening was required before those lands could be returned to the Band.²⁸¹ At the Community Session, Elder George George Sr. stated the lagoon is still at IR 4.²⁸²

TIMBER AND THE LEJAC SCHOOL AND SCHOOL FARM

When F.A. Devereux surveyed Seaspunkut IR 4 in 1894, he indicated that “[s]pruce and poplar” trees on the northern half of IR 4.²⁸³ In 1921, when IR 4 was chosen as the site of the residential school, Indian Agent McAllan described the land as “mostly timbered with growth of poplar willow and some spruce, but small open parky spots occur.”²⁸⁴ At the Community Session, Elder J. Lacerte stated that the site of the school had been covered with “fairly good-sized spruce.”²⁸⁵

When the school was opened in 1922, it operated under the government's residential/industrial school policy, which required male students to learn trades and farming techniques, (mixed farming, carpentry, blacksmithing, furniture making, cabinet making, etc.), and to assist in the operation of the school by providing fuel and constructing buildings as part of their

²⁸⁰ Band Council Resolution, Fraser Lake Indian Band, November 21, 1989, INAC, British Columbia Regional Office, file E5630-07472-2, vol.1(ICC Exhibit 1a, p. 2519).

²⁸¹ A.J. Broughton, Senior Lands Advisory Officer, Lands Directorate, Indian and Northern Affairs Canada, to Peter Keltie, Manager, Indian Lands, British Columbia Region, May 24, 1990, INAC, British Columbia Regional Office, file E5630-07242, vol. 1 (ICC Exhibit 1a, p. 2548).

²⁸² ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 28, G. George Sr.).

²⁸³ Plan BC 100 CLSR , “Plan of the Fraser Lake Indian Reserves, Coast District, British Columbia”, surveyed by F.A. Devereux, PLS in 1894, approved December 14, 1895, (ICC Exhibit 7a).

²⁸⁴ W.J. McAllan, Ind. Agt., Stuart Lake Agency, to Asst. Dep. and Secy., Dept. of Ind. Affrs., March 31, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 297).

²⁸⁵ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 65, J. Lacerte).

curriculum and daily chores.²⁸⁶ In October of 1924, A. F. MacKenzie, Acting Assistant Deputy and Secretary of the Department of Indian Affairs, instructed W.J. McAllan, Indian Agent at Stuart Lake,

that the Department considers the older boys should be at work six half days per week. Care should be taken that work beyond their physical powers is not expected. The lighter duties in connection with clearing of land and the provision of fuel may be assigned. The principal should be asked to see that the type of work for the boys is changed often enough, so that it will not become laborious [sic].²⁸⁷

Quarterly reports filed by the school's various principals indicate that carpentry, building construction, furniture making and cabinet making trades were taught as an aspect of school's manual training curriculum. These trades may have required timber resources. The reports indicate that the male students were productive in learning such trades.²⁸⁸ On March 31, 1933, the principal of the Lejac School reported that,

[t]he children engaged in Manual work show and adaptness [sic] to their duties. The bigger boys have given splendid results in the making of desks, waste paper baskets, and other pieces of household furniture, while the younger boys are fast learning how to handle the tools in order to replace the boys to be discharged.²⁸⁹

²⁸⁶ See: Rev. Chas. Wolf, OMI, Principal, to Russell T. Ferrier, Superintendent of Indian Education, September 11, 1922, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 358); W.J. McAllan, Indian Agent, to Secretary, Department of Indian Affairs, June 16, 1923, LAC, RG 10, vol. 6444, file 881-5, part 2 (ICC Exhibit 1a, p. 380); N. Coccola, Principal, to R.H. Moore, Indian Agent, September 30, 1925, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 408); N. Coccola, OMI, Principal, Fraser Lake Residential School, to R.H. Moore, Indian Agent, March 31, 1929, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 442); N. Coccola, OMI, Principal, Fraser Lake Residential School, to R.H. Moore, Indian Agent, June 30, 1929, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 444); N. Coccola, OMI, Residential School, to Rbt. Moore, Indian Agent, December 31, 1930, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 462).

²⁸⁷ A. F. MacKenzie, Acting Asst. Deputy and Secretary, to W. J. McAllan, Indian Agent, October 20, 1924, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 404).

²⁸⁸ See: Rev. N. Coccola, OMI, Fraser Lake Residential School to R. H. Moore, Indian Agent, March 31, 1929, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 442); Rev. N. Coccola, OMI, Fraser Lake Residential School to R. H. Moore, Indian Agent, June 30, 1929, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 444); Rev. N. Coccola, OMI, Fraser Lake Residential School to R. H. Moore, Indian Agent, March 31, 1931, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 468); Rev. N. Coccola, OMI, Fraser Lake Residential School to R. H. Moore, Indian Agent, January 3, 1932, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 484); Rev. W. Byrne-Grant, OMI, Principal, Lejac Indian Residential School to R. H. Moore, Indian Agent, March 31, 1938, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 716).

²⁸⁹ [Principal], Fraser Lake Residential School to R. H. Moore, Indian Agent, March 31, 1933, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 487).

It is not clear if the timber used to teach these trades came from IR 4.

Operation of the Lejac School's farm required the clearing of the land. As stated above, one reason why Indian Agent McAllan favoured the Seaspunkut IR 4 as the site for a school was because the soil was of "excellent quality."²⁹⁰ In September of 1922, the Superintendent of Indian Education, Russell Ferrier, indicated that the farm was expected to eventually comprise 350 acres.²⁹¹ Only 260 acres, however, were set aside for the school compound by the Nadleh Whut'en Indian Band.²⁹² There is no indication of the actual acreage of the school compound and farm. That acreage is not an issue in this inquiry.

At the Community Session, Elder George Sr. stated "the children cleared the land as you see it the way it is now ... it was tree'd [sic] with spruce"²⁹³ Elder George Sr. characterized the spruce trees as a "spruce grove".²⁹⁴ Elder Lacerte remembered the school site being covered with trees. He stated,

[i]t was a lot. As you're looking at the maps, now, the - - most all - - the white part was mostly spruce trees, and the only - - the only part in front of the school and - - only the part in front of the school - - was cleared out, and that's the part that the priest and the children and the people utilized, because it was clear.²⁹⁵

Elder Lacerte further stated the spruce trees were used for timber "and they cut it up for wood."²⁹⁶ Elder R. Morin testified that the timber cut on the school grounds was used "[m]ostly for

²⁹⁰ W.J. McAllan, Ind. Agt., Stuart Lake Agency, to Asst. Dep. and Secy., Dept. of Ind. Affrs., March 31, 1919, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 297).

²⁹¹ Memorandum to file, Russell T. Ferrier, Supt. of Indian Education, September 1, 1922, LAC, RG 10, vol. 6443, file 881-1, pt. 1 (ICC Exhibit 1a, p. 357).

²⁹² Band Council Resolution attached to W.J. McAllan, Ind. Agt., to Asst. Dep. and Secy., Dept. of Ind. Affrs., April 12, 1921, LAC, RG10, vol. 6443, file, 881-1, part 1 (ICC Exhibit 1a, p. 342).

²⁹³ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, pp. 20, 21, G. George Sr.).

²⁹⁴ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 20, G. George Sr.).

²⁹⁵ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 57, J. Lacerte). See ICC Exhibit 7aa for map referred to here.

²⁹⁶ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 65, J. Lacerte).

firewood.”²⁹⁷ Elder E. Ketlo stated he cut timber as a part of his chores while attending the Lejac school. He testified,

I was working there, packing that boiler wood. They were about four feet long. When I was there it wasn't too far away from the school, okay, so we were cutting quite a bit of poplar, at that time, and use it for boiler - - boiler wood. I remember them chopping the wood too, you know, they use wedges, they call it, was steel wedges, they used that to cut the - - split the wood. They were four feet long. I remember doing some of that.²⁹⁸

Expanding on the school's need for boiler wood, Elder George Sr. further testified that the school

used to have a couple big boilers. They had a boiler room and there was couple big - - actually, there was three, but there was always two that were being used, big furnaces, where the water tank attached to the furnace was probably 15 and 20 feet long and six, seven feet in diameter. And it was heated by - - with - - the furnaces were fired by wood. And we used to cut - - sometimes we'd cut boiler wood four foot long and we used to - every day we used to carry boiler wood to the furnace room ...

...

And some children would - - would take care of what we call kitchen - - kitchen wood, which is only six - - six - - 16 - inch in length.

In the mid forties, or 1945 or so, they start - - they quit using boiler wood and they start using coal to fire these furnace.²⁹⁹

The documentary record indicates that the clearing of the school land occurred throughout its early existence. In its first year of operation, the Lejac School farm comprised 80 acres of cleared land.³⁰⁰ The school's principal reported that “some more acres” were cleared in 1925.³⁰¹ In March of 1931, Principal Coccola reported “10 acres of new land have been cleared and fenced ready for

²⁹⁷ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 75, R. Morin).

²⁹⁸ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 81, E. Ketlo).

²⁹⁹ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, pp. 22-23, G. George Sr.).

³⁰⁰ Memorandum to file, Russell T. Ferrier, Supt. of Indian Education, September 1, 1922, LAC, RG 10, vol. 6443, file 881-1, part. 1 (ICC Exhibit 1a, p. 357).

³⁰¹ N. Coccola, OMI, Principal, Industrial School, to R.H. Moore, Indian Agent, December 31, 1925, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 409).

seeding.”³⁰² In 1934, Principal Rivet reported that: “[b]reaking activities have commenced on our newly cleared 20 acre field and also on two smaller plots comprising about 20 acres”.³⁰³ In January of 1935, Principal Rivet reported that “[f]orty-five extra acres of land are ready for cultivation next year”.³⁰⁴ In his June 1937 quarterly report, Principal Byrne-Grant reported: “[w]e hope to be able to finish clearing and to put into winter wheat, ten acres of land south of the highway. This will leave us about twenty acres of land to be cleared.”³⁰⁵ In October of that year, Principal Byrne-Grant reported that 123 acres were under cultivation.³⁰⁶ In an article published at about the same time, the *Victoria Times* newspaper reported that

[t]here are approximately 225 acres of land, of which 155 are now under cultivation. Fifty-five acres are seeded to alfalfa. ... Thirty acres were in wheat this season, and the balance of cultivated land in oats and peas for green feed, potatoes, garden and hay land.³⁰⁷

That newspaper article also stated that the school had rented “[f]our hundred and eighty acres of additional land ... for pasture and cereal grains.”³⁰⁸ Documents from 1954 indicate that the Lejac Indian Residential School rented 110 acres of additional farm land outside of the school’s grounds in that year.³⁰⁹

³⁰² N. Coccola, OMI, Principal, Fraser Lake Residential School, to R.H. Moore, Indian Agent, March 31, 1931, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 468).

³⁰³ L.H. Rivet, OMI, Principal, Indian Residential School, to R. H. Moore, Indian Agent, September 30, 1934, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 512).

³⁰⁴ L.H. Rivet, OMI, Principal, Indian Residential School, to Deputy Minister of Indian Affairs, January 2, 1935, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 520).

³⁰⁵ Rev. W. Byrne-Grant, OMI, Principal, to R. H. Moore, Indian Agent, June 30, 1937, LAC, RG10, vol. 6443, file, 881-1, part 2 (ICC Exhibit 1a, p. 649).

³⁰⁶ Rev. W. Byrne-Grant, OMI, Principal, to R. H. Moore, Indian Agent, October 10, 1937, LAC, RG10, vol. 6443, file, 881-1, part 2 (ICC Exhibit 1a, p. 655).

³⁰⁷ *Victoria Times*, October 1937, LAC, RG10, vol. 6443, file, 881-1, part 2 (ICC Exhibit 1a, p. 654).

³⁰⁸ *Victoria Times*, October 1937, LAC, RG10, vol. 6443, file, 881-1, part 2 (ICC Exhibit 1a, p. 654).

³⁰⁹ D.B. Campbell, Treasury Auditor, Office of the Comptroller of the Treasury, Department of Finance, to H.G. Charlton, Regional Administrator, Office of the Comptroller of the Treasury, June 21, 1954, INAC, MRO, file 965/16-2, vol. 1 (ICC Exhibit 1a, p. 1437).

The documentary record of this inquiry indicates that, during its years of operation, the Lejac Indian Residential School was in an almost constant state of repair and construction. Many of the documents on the record deal with OMI requests and departmental approval/denial for various repairs to the school and construction of new structures within the school compound.³¹⁰ The documentary record also indicates that the school did purchase lumber and materials related to the construction and/or improvement of buildings on at least five occasions.³¹¹

In March of 1955, the Lejac Indian Residential School applied to the British Columbia Forest Service to cut “a few thousand feet of lumber on the school property” to be used in the construction of hay sheds as well as for sale to “cover costs of cutting”.³¹² OMI officials maintained that “the section [of Seaspunkut IR 4] provided for school use was transferred from being an Indian Reserve to a Dominion Govt. title” and that “Indian Reserve No. 4 begins on the Western boundary of school property.”³¹³ Subsequent correspondence indicates that Stuart Lake Superintendent (Indian Agent) R. Howe “presume[d] the school land was surrendered by the Indian owners years ago and that the title is in the name of the Dominion Government.”³¹⁴

³¹⁰ For example, see: N. Coccola, OMI, Principal, to Duncan Scott, Deputy Minister of Indian Affairs, October 21, 1922, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 363); W.J. McAllan, Indian Agent, to Secretary, Department of Indian Affairs, June 16, 1923, LAC, RG 10, vol. 6444, file 881-5, part 2 (ICC Exhibit 1a, p. 380).

³¹¹ A.F. MacKenzie, Secretary, to R.H. Moore, Indian Agent, July 2, 1935, LAC, RG10, vol. 6444, file 881-5, part 5 (ICC Exhibit 1a, p. 529); [unknown author] to J.G. Turgeon, M.P, September 15, 1938, LAC, RG10, vol. 6444, file 881-5, part 5 (ICC Exhibit 1a, p. 747); Jas. H.F. Lacey, Acting Indian Agent, Stuart Lake Agency, to Secretary, Indian Affairs Branch, December 5, 1939, LAC, RG 10, vol. 6444, file 881-5, part 6 (ICC Exhibit 1a, p. 801); D.B. Campbell, Treasury Auditor, Office of the Comptroller of the Treasury, Department of Finance, to H.G. Charlton, Regional Administrator, Office of the Comptroller of the Treasury, June 21, 1954, INAC, MRO, file 965/16-2, vol. 1 (ICC Exhibit 1a, p. 1440); E. Latham, Treasury Auditor, Office of the Comptroller of the Treasury, Audit Services Division, to G.H. Cheney, July 18, 1961, LAC, RG 10, file 965/16-2, Accession 1999-01431-6, box 369 (ICC Exhibit 1a, p. 1663).

³¹² G.F. Kelly, OMI, Principal, Lejac Indian Residential School, to R Howe, Supt., Indian Affairs Branch, March 25, 1955, no file reference available, (ICC Exhibit 1a, p. 1447).

³¹³ G.F. Kelly, OMI, Principal, Lejac Indian Residential School, to R Howe, Supt., Indian Affairs Branch, March 25, 1955, no file reference available, (ICC Exhibit 1a, p. 1447).

³¹⁴ R. Howe, Superintendent, Indian Affairs Branch, to W.S. Arneil, Indian Commissioner for BC, March 28, 1955, no file reference available (ICC Exhibit 1a, p. 1448).

The documentary record indicates that the school did not cut the timber as proposed.³¹⁵ In 1957, R. F. Davey, Superintendent of Education stated, “[t]he postponement affords some satisfaction since it should permit those concerned to become better acquainted with the status of the land and the procedures applicable to the cutting of timber on Indian land.”³¹⁶ Davey also stated that: “[y]ears ago it was usual to assign land to a school for fuel-wood cutting”.³¹⁷ It is not known if the Lejac Indian Residential School was assigned such lands, or whether the Nadleh Whut'en Band received any compensation for timber taken from the school lands. The Department of Finance's audit report of the school for 1954-55 calculated the school's use of IR 4 lands as follows:

School Land	160 acres
Rented Land	<u>110 acres</u>
	270 acres
Under Cultivation	170 acres
Rough lands	<u>100 acres</u>
	270 acres ³¹⁸

According to the Stuart Lake Agency Superintendent, A.C. Roach, “[i]n or around the year 1958, the Branch had a change of policy which abolished the farm, the Branch assuming financial responsibility to operate the school.”³¹⁹ At a meeting with officials of numerous churches held in August of 1958, Indian Affairs officials expressed the department's desire that financial records for

³¹⁵ W.S. Arneil, Indian Commissioner for BC, Indian Affairs Branch, to Indian Affairs Branch, January, 4, 1957, no file reference available, (ICC Exhibit 1a, p. 1482); R.F. Davey, Superintendent of Education to W.S. Arneil, Indian Commissioner for British Columbia, January 8, 1957, no file reference available (ICC Exhibit 1a, p. 1483).

³¹⁶ R.F. Davey, Superintendent of Education to W.S. Arneil, Indian Commissioner for British Columbia, January 8, 1957, no file reference available (ICC Exhibit 1a, p. 1483).

³¹⁷ R.F. Davey, Superintendent of Education to W.S. Arneil, Indian Commissioner for British Columbia, January 8, 1957, no file reference available (ICC Exhibit 1a, p. 1483).

³¹⁸ D.B. Campbell, Treasury Auditor, Office of the Comptroller of the Treasury, Department of Finance, to H.G. Charlton, Regional Administrator, Office of the Comptroller of the Treasury, September 16, 1955, INAC, MRO, file 965/16-2, vol. 1 (ICC Exhibit 1a, p. 1459).

³¹⁹ A.C. Roach, Superintendent, Stuart Lake Agency, to Regional Superintendent, Administration, February 5, 1969, INAC, British Columbia Regional Office, file 965/36-4-012, vol. 1 (ICC Exhibit 1a, p. 2036).

school operations and farm operations be maintained independently.³²⁰ An Audit report from 1959 indicates that: “[i]n 1959 the Oblate Fathers took over operation of the farm, absorbing all costs, and billing the school for produce produced.”³²¹

USE OF SCHOOL BY THE OBLATES OF MARY IMMACULATE

According to the documentary record, the Oblates of Mary Immaculate held events at the school which were not directly associated with school operations. For example, in 1929, the OMI used the school as part of its celebration of the Reverend Principal Coccola’s “fifty years in the ministry”.³²²

In October of 1936, Jean-Louis Coudert, OMI, Bishop of Rhodiapolis, Coadjutor of Yukon and Prince Rupert, (Bishop E.M. Bunoz’s replacement), advised the Indian Affairs Branch that he had taken up his winter residence at the Lejac School and that he had aspirations that the school could be used to host official Oblate business.³²³ In writing to the Dr. McGill, Deputy Minister and Superintendent of the department, Bishop Coudert stated:

In regard to our residence here, allow me to approach Your Department concerning a plan I have in mind, as a result of the survey I made of the conditions of living of our Missionaries here as well as in the surrounding district.

1. - I found it very inconvenient for Father Principal as well as for the other priests connected with the work at the school not to have any separate living quarters outside of the School Building proper.

2. - My presence here is the occasion of more numerous visitors coming from the surrounding mission district; much to my regret I feel quite unable to give them

³²⁰ Minutes of meeting between Indian Affairs Branch and various church representatives, August 26, 1958, OMI Archives Deschatelets HR 6116.673R9, (ICC Exhibit 1a, p. 1558).

³²¹ E. Latham, Treasury Auditor, Office of the Comptroller of the Treasury, West Coast Region, Audit Services Division, Department of Finance, to G. H. Cheney, Director, July 12, 1960, LAC, RG 10, file 965/16-2, part 2, accession 1999-01431-6, box 369 (ICC Exhibit 1a, p. 1648). Other documents have dated this event as occurring in 1955.

³²² R.H. Moore, to Secty., Dept. of Indian Affairs, November 30, 1929, LAC, RG 10, vol. 6443, file 881-1, part 1 (ICC Exhibit 1a, p. 452).

³²³ Jean-Louis Coudert, OMI, Bishop of Rhodiapolis, Coadjutor of Yukon and Prince Rupert, Indian Industrial School, Lejac, BC to Dr. McGill, Deputy Minister and Superintendent of the Dept. of Indian Affairs, October 22, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 555).

the appropriate hospitality in the very restrained quarters set apart for us in the School.

3. - As Fraser Lake is the most central place of meeting for all our Missionaries working among the Catholic Indians of Northern British Columbia, it is my most earnest desire to have a large residence established here, wherein occasionally I could gather all the priests of the region interested in Indian work for their annual Retreat and Convention.³²⁴

Bishop Coudert continued, saying,

[i]n consideration of the above stated reasons, I beg to ask you whether it would be possible for the Department to sell or to lease to the Oblates of Mary Immaculate for an indefinite period of time a portion of the land owned by the School, so that we might build, at our own expense, within a reasonable distance of the Indian School, the projected residence, which would be used both by the Personnel affected to the School and by the other Missionaries of the district.

I would suggest as the most suitable location for our Residence the portion of the School property located East of the School Building extending down the bank as far as the C.N.R. track.-The said piece of land can be easily made independent from the rest of the School Property; would have an outlet to the station; and would mean no practical loss to the Department.³²⁵

The department looked into Bishop Coudert's proposal and reviewed the 1921 Band Council Resolution passed by the Nadleh Whut'en Indian Band, which set aside land for the school. On November 24, 1936, A. F. MacKenzie, Secretary wrote to Indian Agent Moore and stated:

[i]n view of the fact that the resolution of the Fraser Lake Indians ... states that '260 acres be set aside for the purposes of the erection of an Indian School and farm and grounds therefor', it is considered that, before leasing any land to Bishop Coudert for the erection of a residence for himself and other Roman Catholic missionaries, the consent of the Indians should be obtained.

³²⁴ Jean-Louis Coudert, OMI, Bishop of Rhodiapolis, Coadjutor of Yukon and Prince Rupert, Indian Industrial School, Lejac, BC to Dr. McGill, Deputy Minister and Superintendent of the Dept. of Indian Affairs, October 22, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 555).

³²⁵ Jean-Louis Coudert, OMI, Bishop of Rhodiapolis, Coadjutor of Yukon and Prince Rupert, Indian Industrial School, Lejac, BC to Dr. McGill, Deputy Minister and Superintendent of the Dept. of Indian Affairs, October 22, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 555).

As soon as you can conveniently do so, you should place this matter before the Indians and advise the Department of their wishes.³²⁶

Responding to MacKenzie's November 24 letter, Bishop Coudert wrote, on December 12, 1936,

[w]ith reference to this communication, I cannot help expressing to your Department my great surprise at your action, whereby you requested this matter to be placed before the Fraser Lake Indians.

1.-After all the trouble taken by the Department to secure the deed signed April 12, 1921(as per your copy) by the Fraser Lake Indians, I did not think that the Department could possibly entertain any scruple about the legitimacy of its title over the said land.

2.-Should the Department entertain any scruple concerning the reasons advanced before the Indians to secure aforesaid land, I beg to remark that the lease I am applying for falls exactly within the School purposes mentioned in your deed with the Fraser Lake Indians.-If you will kindly refer to my letter of October 22d, you will see that the first reason I advanced in my request was to have a piece of land whereon to build appropriate quarters for the Principal and Staff of the School.

Of course, if the Department is willing to go through such expenses as to build a house for our Principal, as apparently was done in other Schools, I will immediately withdraw my request, and will be satisfied with any location, whereon the Department will choose to set up the said building.

3.-Unless the Fraser Lake Band of Indians has been of late prejudiced against us by some man antagonistic to our work, I can positively assure the Department that, to the best of my knowledge, none of the said Indians will object to my residing at the School.-Most of these Indians come and visit me weekly at the School, and all have expressed their great satisfaction to see me residing there in order to supervise more carefully the work conducted at the School by the Sisters and Fathers under my care. -In the mind of these Indians my presence near the School is so intimately connected with the work of the School that they will certainly fail to see the distinction between the School work and my work.³²⁷

³²⁶ A.F. MacKenzie, Secretary, to R.H. Moore, Indian Agent, November 24, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 561).

³²⁷ Jean-Louis Coudert, OMI, Bishop of Rhodiapolis, Vicar of Missions for the Oblates of Yukon and Prince Rupert, Indian Industrial School, Lejac, BC to A.F. MacKenzie, Secretary, Department of Indian Affairs, December 12, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, pp. 562-63). Underlining in original.

On December 30, 1936, the Secretary of Indian Affairs, T.R.L. MacInnes, wrote to Bishop Coudert, saying,

[t]his land, a part of the Fraser Lake Reserve No. 4, was surrendered and set aside by the Indians of the Band for the purpose of the Lejac School only, and, in the event, at any time, of it not being further required for school purposes, the land would revert to the Band. It is therefore necessary, before leasing a portion of this land for other than school purposes, that the consent of the Indians be obtained. ...

May I say, further, that the Department understood, from previous correspondence, that the house you intend to erect is for the use of yourself and the Oblate missionaries of the district. It is now noted, from your letter, that this house is for the use of the Principal and staff of the Lejac School. We understand that accommodation for the staff and suitable living quarters for the Principal are provided in the school building.³²⁸

The documentary record of this inquiry provides no evidence that the proposed residence was ever constructed or that the Nadleh Whut'en Indian Band was consulted. By 1937-38, Bishop Coudert no longer resided at the Lejac School.³²⁹

There is evidence on the documentary record that the Oblates of Mary Immaculate did use the Lejac School for their annual retreats, as Coudert suggested. These retreats were held during the years 1937, 1949, 1951 [Eucharistic Congress], 1953, 1960, 1963 and perhaps 1965.³³⁰

³²⁸ T.R.L. MacInnes, Secretary, to Right Rev. Jean-Louis Coudert, OMI, Coadjutor Bishop of Yukon & Prince Rupert, December 30, 1936, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, pp. 564-65).

³²⁹ Extract of Report of Geo. S. Pragnell, Inspector of Indian Agencies, November 2, 1937, LAC, RG10, vol. 6443, file 881-1, part 2 (ICC Exhibit 1a, p. 661).

³³⁰ J.L. Coudert, OMI, Vicar of Missions for the Yukon, Indian Residential School, Lejac, BC, Very Rev. Father Jos. Scannell, OMI, Provincial, April 19, 1937, BCARS, OMI, St. Paul's Province, MS-1513, box 17, folder 13, (ICC Exhibit 1a, p. 621); Joseph R. Birch, OMI, Provincial, to Father Mulvihill, March 24, 1949, [Archives Deschalets, PB 534. P47R, doc 72] (ICC Exhibit 1a, p. 1290); J.P. Mulvihill, OMI, Lejac Indian Residential School, to Very Rev. Father J. Birch, OMI, January 10, 1951, [OMI Deschalets file PB 534.P47R, doc. 127] (ICC Exhibit 1a, p. 1373); F. O'Grady, OMI, Provincial, to Father McDonald, September 6, 1953, BCARS, OMI, St. Paul's Province, MS-1513, box 17, folder 13 (ICC Exhibit 1a, p. 1420); A. V. Parminter, Regional Superintendent of Indian Schools, Regional Office, to R. F. Davey, Indian Affairs Branch, May 18, 1960, LAC, RG 10, vol. 8710, file 965/6-1, part 10 (ICC Exhibit 1a, p. 1642); Gerald E. Cousineau, OMI, Provincial, to Reverend John F. Ryan, OMI, Lejac Indian Residential School, March 19, 1963, BCARS, OMI, St. Paul's Province, MS-1513, box 17, folder 18 (ICC Exhibit 1a, p. 1714); Gerald E. Cousineau, OMI, Provincial, to Reverend John F. Ryan, OMI, Lejac Indian Residential School, April 1, 1963, BCARS, OMI, St. Paul's Province, MS-1513, box 17, folder 18 (ICC Exhibit 1a, p. 1715).

At the Community Session, Elder George Sr. recalled

there was times that there was an influx of priests. I don't know what they were doing, but there was priests that didn't take part - - that were there but didn't take part in teaching of the children, but they were just there... .

... The Bishop used to live there at times.³³¹

At the same session, Elder R. Morin was asked if she remembered “any time when there seemed to be more priests than were there normally?”³³² Elder Morin recalled:

Yes, there was. I seen about 20 priests. I was wondering how come there was so many. ...The were having a retreat or something.

...

I remember, now you talk about that, the sisters used to make us be quiet when we were going down the hallway going to our classrooms, they make us be quiet, because the priests were in the chapel and they were having their retreat or something.³³³

The 1960 retreat was noted by A. V. Parminter, Inspector of Indian Schools, in his inspection report dated May 18, 1960. Parminter reported:

[d]uring my visit to Lejac I was unable to observe the children at meal time under normal circumstances since classes had not resumed on the specified date following the Easter vacation. The delay was the result of a retreat for the clergy of the area held at Lejac for several days. Over thirty priests were in attendance thus necessitating delay in school opening as dining room and kitchen facilities would have been quite inadequate to cope with the usual enrollment [sic] and the visitors.

The teachers did not work on Monday, April 25th. Since I expected to find them engaged in teaching, I presumed the department had granted permission to either Bishop O'Grady or Father Kelly to suspend classes on that date and that no deductions from teachers salaries will be made. Will you kindly confirm this? For my future guidance I should appreciate knowing what financial arrangements are made

³³¹ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 38, G. George Sr.).

³³² ICC Transcript, November 22, 2007 (ICC Exhibit 5a, p. 74, Commissioner A. Holman).

³³³ ICC Transcript, November 22, 2007 (ICC Exhibit 5a, pp. 74-76, R. Morin).

between the church authorities and the Department when such a large number of visitors are domiciled in one or our schools during a retreat.³³⁴

³³⁴ A. V. Parminter, Regional Superintendent of Indian Schools, to R. F. Davey, Indian Affairs Branch, May 18, 1960, LAC, RG 10, vol. 8710, file 965/6-1, part 10 (ICC Exhibit 1a, p. 1642-43).

