

Federal Court



Cour fédérale

Date: 20230121

Docket: T-1542-12

Citation: 2023 FC 104

Ottawa, Ontario, January 21, 2023

PRESENT: Madam Justice McDonald

CLASS PROCEEDING

BETWEEN:

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

Plaintiffs

and

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

Defendant

ORDER

UPON MOTION by the Plaintiffs for an Order, on consent, approving advanced costs in the amount \$500,000 to be paid by the Defendant to the Representative Plaintiffs;

AND UPON READING the Notice of Motion, and the Affidavit of W. Cory Wanless, sworn January 19, 2023;

AND UPON BEING ADVISED that the Defendant consents to this Order;

AND UPON hearing oral submissions on January 20, 2023;

THIS COURT ORDERS that:

1. Advanced costs in the amount of \$500,000 (the “Advanced Costs”) shall be paid to the Representative Plaintiffs by the Defendant;
2. The Representative Plaintiffs must only use the Advanced Costs to pay the costs, including any necessary solicitors’ fees, associated with establishing the Not-For-Profit Entity and Trust referred to in ss. 21 and 22 of the proposed Band Class Settlement Agreement (the “Settlement Agreement”) so that the Trust is ready to receive the Fund as of the Implementation Date as set out in the Settlement Agreement in the event that the Court orders the approval of the Settlement Agreement;
3. In the event that the proposed Settlement Agreement is not approved, the Representative Plaintiffs shall only have to pay back to the Defendant any unused portion of the Advanced Costs within twenty-one (21) days of the Court Order not approving the Settlement Agreement or any unsuccessful appeal of such an Order;
4. In the event that the proposed Settlement Agreement is not approved, the Representative Plaintiffs are not liable to reimburse the Defendants for any

portion of the Advanced Costs that have already been disbursed in accordance with paragraph 2 above;

5. The Advanced Costs shall be paid to Waddell Phillips PC, in trust, within twenty-one (21) days of this Order; and
6. There shall be no costs of this Motion.

"Ann Marie McDonald"

Judge