

IN THE MATTER OF a Preliminary Draft Comprehensive Land Claim Agreement-In-Principle among the Algonquins of Ontario; the Province of Ontario; and the Government of Canada

AND IN THE MATTER OF an application to add Françoise Grenier, also known as François Garnier, as an Algonquin ancestor

AND IN THE MATTER OF a hearing being conducted pursuant to schedule 15.5 of the Preliminary Draft Agreement-in-Principle

AND IN THE MATTER OF a hearing held at Pembroke, Ontario, on April 17, 2013

APPEARANCES:

Ben Mills, counsel to The Honourable James B. Chadwick, Q.C.

Joan Holmes, Enrollment Officer

Nancy Ward, on behalf of the Applicants

Chief Doreen Davis, on behalf of the Applicants

Jim Meness on behalf of Pikwakanagan First Nations, responding to the Application

Andre Richer, on behalf of the Applicants

Larry McDermott, on behalf of the Applicants

BEFORE: The Honourable James B. Chadwick, Q.C, Designate Appointed Pursuant to the Protocol for Consideration of Potential Additions to the Schedule of Algonquin Ancestors

DECISION

PREAMBLE

[1] I appreciate how sensitive these matters are to the applicants and their families. They are all very proud of their native heritage.

[2] These hearings are conducted by me as the designated appointed pursuant to the Protocol for Consideration of Potential Additions to the Schedule of Algonquin Ancestors.

[3] With reference to applications to add a person as an Algonquin Ancestor schedule 15.5 sets forth my jurisdiction. In order to be added as an Algonquin Ancestor, chapter 1 provides:

“Algonquin Ancestor” means a person who was born on or before July 15, 1897 and identified in an historic record or document dated on or before December 31, 1911, in such a way that it would be reasonable to conclude that the person was considered to be an Algonquin or Nipissing, or a full sibling of such a person. A preliminary list of Algonquin Ancestors agreed to by the Parties is included in Appendix 3.1. In this definition, a “full sibling” of a person is a sibling having the same natural mother and natural father as that person.

[4] I have no jurisdiction or discretion outside of the provisions of the Preliminary Draft Agreement-in-Principle. Both in this application and in the Carriere application, a number of the spokespeople in support of the applications are non-status aboriginals. It is obvious from the remarks that they feel discrimination against them by the community and also their status brethren.

[5] In considering this matter, it is important to note that my decision binds the Algonquins of Ontario with respect to the issue of whether or not Francoise Grenier (Garnier) should be considered by the Algonquins of Ontario as meeting the definition of "Algonquin Ancestor". However, for an ancestor to be added to the Preliminary List of Algonquin Ancestors, the Governments of Ontario and Canada must also agree. My decision does not bind the Governments of Ontario and Canada.

APPLICATION

[6] Nancy Ward presented a PowerPoint demonstration, on behalf of the applicants. She indicated that she had conducted her own research into her family history long before these applications began. Her ancestor, Julia Dube, was under protest as not being an Algonquin.

[7] Once the protest was launched she retained the services of a researcher who also confirmed that she was related to Julia Dube. In order to establish her historical roots, she went back to the marriage of Françoise Grenier and Noel Langlois in 1634. They had 10 children. She told the history of one of their children Elizabeth, who married Guillaume Lemieux in 1669. They had a daughter, Anne Lemieux, who married Charles Bernier in 1694. They had a child, Pierre Bernier, who married Louise Madeleine Guimont in 1742. They had a child, Marie Anne Bernier, who married Augustine Dube in June 1773 and they had a son, Jean-Marie Dube, who married Louise Boivin, who had a child, Julia Dube, born on October 29, 1806. Julia Dube married Joseph Fleuri (Fleury) on September 18, 1827.

[8] All the documentation up until this point does not show any of the parties as being Algonquin. Nancy Ward then returned to the family of Françoise Grenier and Noel Langlois and looked at other siblings. She proceeded to follow Noel, who was born on December 1651. He married Madeline Bisson and they had a child Jean Langlois in 1688. Nancy Ward states that Jean Langlois received a land grant in the territory where 15,000 Algonquins were settled. In the deed of land he is described as "Sauvage".

[9] In tracing the roots they identify Pierre Langlois as having a child with an Algonquin woman. The baptismal certificate, shown on tab 9, identifies the child as "Louis son of Pierre Langlois Algonquins. It identifies the mother as Magdeleine Sauvage Algonquins.

[10] Nancy Ward proceeded to trace the family history of the other children of Françoise Grenier and Noel Langlois through their relationship with people and families in the Algonquin community. She draws the conclusion that they too must have been Algonquin. She points out

that hundreds of people situated throughout the Algonquins of Ontario territory and Québec all have something in common and that is they are all descendants of François Grenier.

[11] Nancy Ward concluded in the PowerPoint presentation as follows:

Conclusions by Nancy Ward

My family and relatives have always known we have native blood in our heritage.

We had conflicts within our own families in my Grandmother's and Great-Grandmother's timeframe whereas some families were told that they were definitely "Indian" and other were told "NO never tell anyone" they were "Indian" because of the stigma associated with this.

My immediate family always knew in our hearts that we were native, reasons being our looks: brown eyes, high cheek bones, dark skin, etc.

My grandmother; Flora Chartrand, used native medicinal remedies on her family all the time.

She would be constantly collecting herbs, roots, etc. to make her medicines.

She was taught this from her mother, Virginie St. Jean and I am sure by great-grandmother, Virginie was taught from her mother, Julie Fleury.

[12] Chief Doreen Davies also presented a PowerPoint demonstration. She also started with the arrival of Noel Langlois in 1633 and the subsequent marriage to Françoise Grenier in 1634. At tab 8 of her presentation she outlines the Langlois family tree. Chief Davies also identifies the birth of a child, Louis Langlois, to Pierre and his wife Marie Magdeleine Sauvage in 1742. Pierre's wife was an Algonquin woman.

[13] On slide 14, Chief Davies puts forth her strongest evidence Françoise Grenier is an aboriginal woman and probably of Algonquin descent. The slide is shown as follows:

We have found documents that show that other descendants of François Grenier and Noël Langlois are identified as Sauvage, Savage and Metis. An Algonquin woman named Marie Oliver Manitouabéouiche is named godmother on baptismal documents and named witness at the marriages of Françoise Grenier's family members.

Although quite frequent to have Indigenous People as witnesses or godparents for Indigenous People, it was not a practice for Indigenous People to have those roles for the French.

We have found a marriage between Franç Grenier's grandson, Clément Langlois, and Marie Oliver Prévost's granddaughter, Marie Anne Prévost.

[14] Chief Davies also traces the siblings of the Langlois family, along with their locations and land grants, from time to time, all of this in support of their position that Françoise Grenier was Algonquin. Chief Davies concludes her PowerPoint presentation as follows:

The Shabot Obaadjiwan First Nation has recognized the Badour/Cota Algonquin Families as members of this community for many years before this land claim started.

They are members of our Elders Circle, Youth Circle and Chief and Council.

Descendants of François Grenier and Noël Langlois are present here today to share their stories and express their pride of being Algonquin.

We have shown a relationship between François Grenier and a known Algonquin ancestor from the Preliminary Voters List.

Marie Olivier Silvestre Manithabehick is on page 179 of the Preliminary Voters List.

The baptismal and marriage of François Grenier's granddaughter and daughter do not list Marie Olivier Silvestre Manithabehick as Algonquin on either document. Was this another attempt to cloak a know Algonquin woman's identity?

[15] Andre Richer also made a PowerPoint presentation in support of the applicants. Unfortunately, his presentation was more political and was drawn on many assumptions which cannot be proven. At tab 9 he raises the issue whether Françoise Grenier/Gariner was of aboriginal origin and if so, was she Algonquin? He states:

Unfortunately, nobody so far can ascertain with 100% certainty that she is of aboriginal or of French origins. Nobody. No written "historical documented" evidence has been found so far that would clearly state of her origins. None. "Oral history" however, transmitted from generation to generation to this day, from various otherwise unrelated families including the Fleuri, Dube and Bedard families all claim that they are Algonquin based on her ancestry which they claim is Algonquin..... Not Montagnais nor Huron-Wendat and not French!! Others claim that, without proof to the contrary, she must ipso facto be presumed to be French, as she has at the very least a French name....."

[16] After a very lengthy slide presentation Mr. Richer concludes at tab 26 and tab 27 as follows:

Conclusions by Andre Richer

Likewise to historians, *the Fleuri, Dube and Bedard* families have not been able to provide solid **uncontested** historical evidence that would unequivocally clearly indicate that *Françoise Garnier/Grenier* was an **Algonquin**.

However, they have provided pieces of *circumstantial written evidence* that if taken individually might not be conclusive by themselves but as a whole would seem to support their claim that she was Aboriginal and an **Algonquin**.

They have also provided **“oral history”** as evidence to their claim, an important **tradition** in all Aboriginal history and cultures including Algonquin.

Just as in *Marie Olivier Sylvestre* and other similar cases of suppressed Aboriginal identities, there exists centuries of **“oral history”** handed down from generation to generation in their families and others, seemingly unrelated to one another, who all claim to be of *Algonquin* original and are direct descendants of *Françoise Garnier/Grenier* of **“unknown origins”**.....

They have thus demonstrated that their families identified for *generations* as *Algonquin*. As such, they have been accepted members of their respective *Algonquin* communities as far back as the 1800's and have the support of many.

For thousands of years, Aboriginal people including **Algonquin** have always had a **tradition** of acceptance and inclusivity. We readily accepted and adopted within our communities members of other Nations as our own. This was done through marriage, adoption and many other ways and we still do to this day.....

Thus, it is respectfully submitted that the **“testimony”**, the **“written documents”**, the **“circumstantial evidence”** and the **“oral history”** of being *Algonquin* for generations presented by the *Fleuri, Dube and Bedard* families should normally suffice for any reasonable traditional Aboriginal person to consider their common ancestor, *Françoise Garnier/Grenier*, as being an **Algonquin ancestor**.

[17] Larry McDermott, a member of the Ontario Human Rights Commission, presented an affidavit from his cousin in Sturgeon Falls. He was told as a child of his relatives and parents telling him not to tell people that he was Algonquin because he'd be discriminated against and laughed at. They hunted and fished with the natives and were accepted by them.

ORAL HISTORY

[18] A number of people, who were in the audience, gave oral history relating to their own family and how they had been told by their grandparents and other elders about their connection and aboriginal heritage. Many of the speakers have adopted traditional aboriginal ways of life and are actively involved in the aboriginal communities. Both Nancy Ward and

Connie Mielkle described their involvement in making drums from natural resources and in singing traditional native songs. All the speakers are very proud of their aboriginal heritage.

[19] In previous decisions I have commented upon the use of oral history to determine heritage and aboriginal ancestry. I have stated before much has been said about the use of oral history as it relates to aboriginal land claims. The courts have recognized that indigenous people did not write down their history, but rather passed it on from generation to generation by way of oral histories. The Supreme Court of Canada in *Mitchell v. Minister of National Revenue* [2001] 1 S.C.R. 911 made the following comment at paragraph 27:

Aboriginal right claims give rise to unique and inherent evidentiary difficulties. Claimants are called upon to demonstrate features of their pre-contract society, across a gulf of centuries and without the aid of written records. Recognizing these difficulties, this Court has cautioned that the rights protected under s. 35(1) should not be rendered illusory by imposing an impossible burden of proof on those claiming this protection (*R. v. Simon*, [1985] 2 S.C.R. 387 (S.C.C.), at p. 408). Thus in *Van de Peet*, supra, the majority of this Court stated that “a court should approach the rules of evidence, and interpret the evidence that exists, with a consciousness of the special nature of aboriginal claims, and of the evidentiary difficulties in proving a right which originates in times where there were no written records of the practices, customs and traditions engaged in.

[20] In dealing with matters on this type of application it is somewhat different than in a longstanding land claim. An oral history does have an important role to play along with the historical documentation. The oral history is offered to establish they are aboriginal and Algonquin. However oral history evidence must be very carefully weighed and evaluated. I have no doubt the presenters are giving their best recollection of stories that have been passed down over the years. The oral history must be considered in conjunction with the Primary and Secondary documents.

[21] In applying the oral history, in this case, it must be used to establish not only an aboriginal heritage but an Algonquin heritage that meets the requirements of the AIP.

Respondents Pikwakanagan First Nations

[22] Jim Meness spoke on behalf of the respondents. He pointed out to the numerous supporters of the applicants, that the Pikwakanagan First Nations felt it was their duty and obligation to make sure that anyone who applied for Algonquin heritage was in fact a true Algonquin. He emphasized they were not on a witch hunt. He also commented on the dangers of relying upon oral history to establish Algonquin heritage. By the application of oral history everyone is an Indian.

[23] He noted that many of the applicants were raised in a French environment, spoke French and of course, the question being are they Algonquin?

[24] Joann McCann, the research historian and genealogist, retained by the Pikwakanagan, was unable to attend, however her report of April 2013 is filed on the Algonquins of Ontario review committee website. Her report was adopted at the hearing as if presented.

[25] In preparing her April 2013 report Joann McCann reviewed the recent documentation filed by the applicants. She also refers to the report of Joan Holmes dated February 2013. As she points out that almost impossible to do a genealogical report on the entire Langlois family, their occupations, residents, land ownership and descendants.

[26] As she states: “consequently, it only addresses some aspects of this basic research topic in order to enter the following questions:

- 1) Was Françoise Garnier/Grenier and Algonquin woman?
- 2) Was Louis Langlois born in 1742 at Trois Rivieres, son of Pierre Langlois and Madeleine, Algonquin descendants from Françoise and Noël Langlois and was he an ancestor of Julia Dube, and Madeleine Chevalier?
- 3) Was Jean Langlois, who received land grants, a descendant of Françoise and Noël Langlois and was he an ancestor of Julia Dube, and Madeline Chevalier?

[27] Joann McCann then proceeds to review in detail the geological history in the order the questions were raised by her. She concludes her report, at page 15 where she provides a summary of her findings.

Summary of Findings by Joann McCann

- As evident in the Tanguay Dictionary, Noel Langlois came here in 1634; he and Françoise Grenier have many descendants.
- In the 17th century, other Langlois men came to New France.
- Francois Grenier married Noel Langlois in 1634 and their first child was born in 1635.
- Though there is controversy on whether she arrived on the same ship as her husband to be, most academics or genealogists (Tanguay, Langlois & Jette) merely say that her origin is unknown. Trudel is the only one to say that she may have come as a domestic working for another family.
- None of the historical documents indicate that she was Aboriginal or Algonquin or that her children were Aboriginal.

- Given that she arrived during Champlain's time when unions between the French and Aboriginal people was not discouraged, if she was Aboriginal, the priest and others would have noted this union between cultures.
- Unions between Aboriginal women and newcomers often indicated the woman's Aboriginal name as seen with Marie Manitouabouich and Marie Miteouamigoukoue.
- If not, they were identified by their Nation such as "Algonquine" or by "Savage", "Sauvagesse" or "Sauvages".
- She married Noel at Beauport and died there, clearly outside of Algonquin territory.
- None of her three surviving sons, Jean, Jean and Noel appeared to have a son or grandson who was Jean Langlois, Huron.
- Jean Langlois who received four land grants was called Sauvage and Huron and could not write and was married to Madeleine Pageau.
- Various genealogists and PRDH put forth that he was John Hunnewell alias Annaouil dit Langlais.
- Michel Langlois, a descendant, archivist and genealogist wrote a book on Noel Langlois and his sons, and asserts that there was another Jean Langlois who got land grants in that area.
- Jean Langlois dit Traversy, (1788-1767) and his wife, Madeleine Bisson raised their family at Ste. Foy. He could sign his name.
- In the 1730 land document, he was called Jean Langlois dit Traversy, habitant.
- There were other individuals by the name, Jean Langlois but the one who was Huron and received land grants was not related or was Jean Langlois dit Traversy, habitant and son of Noel I and grandson of Noel Langlois I.
- Michel Langlois also refutes the assertion that his ancestor, Françoise Grenier was Aboriginal and affirms that her origin is unknown.
- If Maxime Vachon was identified as Metis in 1871 and is a descendant of Marguerite Langlois and Paul Vachon who married on 22 October 1653, her Aboriginal ancestry is unknown but over the 200 years of her ancestry, it may have come from any branch of her family tree and simply cannot be assumed that it came from Marguerite Langlois and Françoise Grenier. Nonetheless, she is not an ancestor of Julie Dube or Madeleine Chevalier.

- Noel Langlois and Françoise Grenier had ten children with two sons, Jean and Noel who married and had families.
- Julie Fleury nee Dube according to the presentation was descended from Elizabeth Langlois and her second husband, Guillaume Lemieux and Madeline Bedard nee Chevalier was descended from another daughter of Françoise and Noel's, Anne Langlois who married Jean Pelletier.
- Consequently, Aboriginal and specifically Algonquin ancestry must flow from these Langlois women, Elizabeth and Anne, and possibly from their mother Francois Grenier to the descendants.
- To date, no sources indicate that Francois Grenier was Algonquin.

[28] Joan Holmes, a historical researcher and genealogists, is the enrolment officer. It is her duty and responsibility to review the authenticity of the various documents filed in support of the positions.

[29] In a revised report dated April 15, 2013, she sets out the issues to be reviewed, they are as follows:

Replies to protests against the following ancestors were received in November 2012:

- Simon Gene/Jean Bedard (TMG #10086) and his son Simon Jude Bedard (TMG #10066; and
- Julia Dubé (TMG #16266).

Those replies argued that certain ancestors were Algonquin based on their descent from Françoise Garnier/Grenier, who married Noel Langlois in 1634 at Beauport, Quebec. The ancestors said to be Algonquin descendants of Françoise Garnier/Grenier are:

- Magdeleine Chevallier, wife of Simon Jude Bedard; and
- Julia Dubé

Neither Magdeleine Chevallier nor Françoise Garnier/Grenier have been previously identified and accepted as Algonquin and are not listed on the Preliminary List of Algonquin Ancestors. Julie Dubé is currently under protest. In order to consider the Algonquin status of Magdelaine Chevallier and Julia Dubé, the ethnic identify of Françoise Garnier/Grenier must first be determined.

The purpose of this report is to discuss and assess the evidence regarding the ethnic identity of Françoise Garnier/Grenier.

[30] This report is also filed on the website. As such, I am not going to review it in detail. At page 13 of Joan Holmes' report she concludes:

Conclusions by Joan Holmes in her April 15, 2013 report

No convincing evidence has been presented that shows that Françoise Garnier/Grenier was aboriginal or Algonquin. The parents and origins of Françoise Garnier/Grenier are not known and all material related to her possible origins is speculative. While it is possible that she was aboriginal, nothing indicates she was Algonquin.

The material related to the concessions to Jean Langlois in 1733, 1745, 1758 and 1764 and the baptism of Louis Langlois in 1742 suggest that the baptized child, Louis Langlois was Algonquin and that Jean Langlois, if aboriginal, was likely Huron. No genealogical link has been proven between those two individuals and Françoise Garnier/Grenier and the documentary evidence strongly indicates that there are no links between them.

[31] At the hearing on April 17, 2013, Joan Holmes reviewed the recently filed documents by the applicants, and provided a power point presentation. The question raised by her was whether Françoise Garnier/Grenier, and by extension Magdeliene Chevallier, can be accepted as Algonquin ancestors.

[32] The applicants take the position that Magdeliene Chevallier and Julia Dubé, derive their Algonquin ancestry from Françoise Garnier/Grenier, specifically Magdeleine Chevallier a descendant of Françoise Garnier/Grenier and Noel Langlois through their daughter Anne Langlois; and Julia Dubé from Elizabeth Langlois daughter of Françoise Garnier/Grenier and Noel Langlois.

[33] Joan Holmes reviewed the criteria, set out in the AIP, which must be applied in answering this question.

[34] In doing so she points out that no documentation has been found for Françoise Garnier/Grenier that identifies her parents, birthplace or ethnic origins. She noted that her husband Noel Langlois was born in France to French parents. They married at Beauport, Québec on July 25, 1634. Their parents were not named on their marriage record. She then reviewed the land concessions made to Jean Langlois and the three generations of Langlois. Joan Holmes then summed up Jean Langlois with a presentation entitled: "Are the facts consistent"?

Are the facts consistent?

Jean Langlois, grandson	Jean Langlois, land grants
Born 1688; died 1767 (45 to 76 at time of grants)	Land granted 1733 to 1764
Married to Madeleine Bisson at Ste-Foye, 1712	Not known
13 children born from 1713 to 1732 at Quebec City and Ste-Foye	First concession at St-Gabriel, 1733
Records for marriages of children from 1733 to 1761 at Ste-Foye	Three additional concessions at St-Gabriel: 1745, 1758, 1764
No mention of aboriginal heritage on any baptism or marriage records	Noted on land concessions as “sauvage”, Huron and/or living with the Hurons
Signed his name on marriage records	Noted on land concessions as not being able to read or sign name
Noel Langlois, father of Jean Langlois died in 1693; noted as deceased on Jean’s 1712 marriage record	Parents of Jean Langlois examined land concessions post 1764.

[35] Joan Holmes then reviewed the baptism documents relating to Louis Langlois in 1742. The record shows the baptism of “Louis Langlois fils de Pierre Langlois Algonquin”. His mother is named as “Magdeleine Sauvage Algonquine”. The baptism took place at Trois Rivieres on June 5, 1742. Louis Langois was 2 months old at baptism and his parents were not noted as married.

[36] Joan Holmes then reviewed four generations of Langlois, starting with Noel Langlois and concluding with the 4th generation. She concludes with a presentation on Pierre Langlois, with the title: “Are the facts consistent”?

Are the facts Consistent?

Pierre Langois, grandson	Pierre Langlois, father of Louis
Born 1677; died 1759	Baptism 1742

65 years old in 1742	
Wife: Madeleine Godbout, daughter of Nicholas Godbout and Angelique Lemelin	Mother of child: Magdeline Sauvage Algonquine, no family name
Two marriages, 20 baptisms and children's marriages, 1701 to 1750 at L'Île d'Orleans	Baptism at Trois Rivieres, 1742

DECISION

[37] As this is an application to have Françoise Grenier added as an Algonquin ancestor, then the burden, or onus of proof, is on the applicants. In order to satisfy this burden they only have to show on a balance of probabilities, that Françoise Grenier meets the definition of Algonquin ancestor, within the meaning in chapter 1 of the AIP.

[38] In other words, was Françoise Grenier born before July 15, 1897 and identified in a historic record or document dated on or before December 31, 1911 in such a way that it would be reasonable to conclude that the person was considered to be an Algonquin or Nipissing, or a full sibling of such a person.

[39] It is obvious that Françoise Grenier was born before July 15, 1897. The difficulty relates to identification in a historical document that would be reasonable to conclude that she was considered to be an Algonquin.

[40] The applicants themselves admit they cannot find a historical document which satisfies that requirement. However, they argue that the historical documents produced, coupled with the strong oral history and assumptions, satisfy the burden upon them.

[41] As I have said in previous decisions, the oral history is important along with the primary and secondary historical documents.

[42] The research of Joann McCann and Joan Holmes conclude there are no historical documents that establish Françoise Grenier was an Algonquin. Joan Holmes accepts she may have been aboriginal.

[43] Is the oral history sufficient to overcome the deficiency in the lack of historical documents?

[44] I was impressed with the oral history presented by many people at the hearing. It established they and their families were living and following an aboriginal culture. They live in Algonquin communities and are very active in their community.

[45] However, to answer the question, I am not satisfied on the balance of probabilities the oral history is sufficient to satisfy the strict requirements of the criteria, as set out in the AIP. The absence of a reliable historical document to conclude Françoise Grenier was probably an Algonquin is crucial to their application.

[46] Therefore, the application to add Françoise Grenier as an Algonquin ancestor is dismissed.

Dated at Ottawa this 12th day of May, 2013

James B. Chadwick, Q.C.

**The Honourable James B. Chadwick, Q.C.
Designate Appointed Pursuant to the Protocol
for Consideration of Potential Additions to the
Schedule of Algonquin Ancestors**

IN THE MATTER OF a Preliminary Draft Comprehensive Land Claim Agreement-In-Principle among the Algonquins of Ontario; the Province of Ontario; and the Government of Canada

AND IN THE MATTER OF an application to add Françoise Grenier, also known as François Garnier, as an Algonquin ancestor

AND IN THE MATTER OF a hearing being conducted pursuant to schedule 15.5 of the Preliminary Draft Agreement-in-Principle

AND IN THE MATTER OF a hearing held at Pembroke, Ontario, on April 17, 2013

DECISION

**The Honourable James B. Chadwick, Q.C.
Designate Appointed Pursuant to the Protocol for
Consideration of Potential Additions to the Schedule
of Algonquin Ancestors**

DATED: May 12, 2013