

DECISION OVERVIEW

01. On January 4, 2026 ,the Bigstone Cree Nation held a By-election for Chief. Silas Yellowknee was declared elected. The total number of ballots cast was 1137 with 2 ballots spoiled. The following chart is copied from the votes reported by the Electoral Officer [Document #16] and lists the candidates and the number of votes received:

Alook, Doreen	91
Bouchard (Gladue), Lillian	212
Noskiye, Jason	363
Yellowknee, Silas	469

02. Within the time allowed under the Election Code, Jason Noskiye filed a Notice of Appeal [Document #25]. Mr. Noskiye raised three issues in the Notice of Appeal:

- (i) whether online voting is allowed under the Election Code and whether there were online voting irregularities;
- (ii) whether the by-election should be overturned because there wasn't a polling station in Fort St John, B.C.; and
- (iii) whether the sister of Silas Yellowknee, Margo Auger, was influencing voters at the Edmonton polling station.

03. Other concerns about the election were raised in the witness statements attached to the Notice of Appeal, and by the witnesses in the hearing. I have concluded that my authority under the Election Code is shaped by the issues raised in the Notice of Appeal. I will not decide the other issues raised in the witness statements. My reasoning is further explained in Appendix 2.

04. For the reasons below, I have concluded that:

- (i) online voting is allowed under the Election Code;

- (ii) any online voting discrepancies did not influence the results of the election;
- (iii) the polling stations were established correctly under the Election Code; and
- (iv) M. Auger did not influence voters at the Edmonton polling station.

05. Based on these findings, and pursuant to Election Code section 15.8, I deny the appeal. My reasons are set out below in the same order as they were listed in the Notice of Appeal.

Issue #1 – Does the Election Code allow for online voting? If the Code allows for online voting - were there sufficient discrepancies such that the results of the election were affected?

Summary of Information Received

06. In the Notice of Appeal, Mr. Noskiye stated that Council has not passed a motion to allow for online voting, and the membership has not agreed to online voting through a referendum. The Notice of Appeal raised concerns that many members had a difficult time using the online voting program.

07. In support of his appeal on this issue, Mr. Noskiye provided written statements from Flora Auger, Carolyn Auger, Summer Uchytel-Jamieson, and Lillian Bouchard. Flora, Carolyn and Summer were not present at the hearing. I advised the parties that I would accept the written statements at face value and would not draw any negative inferences as to whether a witness attended the hearing either online or in person. What follows is a summary of their evidence:

- (a) Flora Auger’s statement indicated that the online voting did not work for her, however, it does not state whether or not she voted at one of the polling stations.
- (b) Carolyn Auger reported in her written statement that she was present during the vote tabulation at the Wabasca polling station. She stated that the Electoral Officer verbally announced the number of online votes for each candidate by

reading them off his laptop. It was her opinion that there could be cheating with the online system if you knew someone’s date of birth and treaty number.

(c) In her written statement Summer Uchytíl-Jamieson explained that she encountered some difficulty voting online and decided to drive to the Calling Lake polling station. She received a phone call from the online voting helpline during the drive and so she voted online, but expressed frustration and stress about the process.

(d) Lillian Bouchard expressed her opinion that nothing in the current Election Code authorizes online voting. She believes there should be a referendum of the members before it can be used. She raised concerns that there weren’t clear procedures to conduct the online voting.

08. In the Band Council Resolution dated November 18, 2025 [Document #03], the authority for using online voting is shown as section 22 of the Code which gives Council authority to pass resolutions to approve administrative procedures necessary to implement the Code.

09. The chart below is taken from a report from the Electoral Officer to the Council dated January 7, 2026 [Document # 18 at page 4] and shows the number of votes cast per candidate at each of the polling stations and online (electronic):

Option	Calling Lake	Wabasca	Chipewyan Lake	Slave Lake	Edmonton	Electronic	Total Votes
ALOOK, DOREEN	3	36	0	0	8	44	91
BOUCHARD (GLADUE), LILLIAN	35	50	2	5	18	102	212
NOSKIYE, JASON	18	172	3	10	19	141	363
YELLOWKNEE, SILAS	12	196	15	17	32	197	469
Spoiled	1	1	0	0	0	0	2

Election Code Sections

10. The Code was first used for the general election of 2010, so it at least dates from that point in time. There is no specific section in the Code which authorizes online voting, so I had regard for those sections of the Code that give direction as to how the election is to be conducted including:
 - (a) Council appoints the Electoral Officer by resolution (s. 7.1);
 - (b) Council appoints the Election Appeal Arbitrator (s.7.1);
 - (c) Council can add to the listed duties of the Electoral Officer (s.7.5);
 - (d) Council sets the remuneration of the Electoral Officer and Election Appeal Arbitrator (s.7.6);
 - (e) Council sets the locations for notice of the nomination meeting (s.8.1);
 - (f) Council sets the locations for notice of the election (s.10.1(a));
 - (g) Council determines the locations of polling stations (s.10.3(a)); and
 - (h) Council can approve administrative procedures to implement the Code (s.22.1).
11. Section 21 sets out a process for amendments to the Code and the percentage of a referendum vote needed to change specific sections. No referendum vote is required to change section 10.3(a) the location of polling stations or section 22 administrative procedures.
12. In order to determine whether a reading of the Code includes the authority for online voting I also had regard for two principles the Court's rely on when interpreting legislation. The first principle is that the words of legislation are to be read in their entire context, in their ordinary and grammatical sense, harmoniously with the intention of those who passed the legislation. The second principle is that "legislation is always speaking" meaning that it should be read in light of modern values and expectations.

Reasons

13. I have concluded that the Election Code, when read as a whole, and in light of the technology available in 2026 and modern expectations, permits Council to offer online voting as an alternative polling station and under changes to administrative procedures. The intention of the Code is to set out a fair, objective and transparent system for elections, while recognizing that some decisions about how to administer an election needed to be left to Council. An example of this is the selection of additional polling station locations. It is reasonable to assume that a Council when making this decision would balance the cost and expense of staffing polling stations in multiple locations against the ability to offer online voting to its members. For example, less than 20 people voted at the Chipewyan Lake polling station.
14. In the event my interpretation is incorrect, the results from the in-person polling stations are conclusive, Silas Yellowknee was the successful candidate in the By-election. He received the most votes in each separate polling station - with the exception of one. Silas Yellowknee received the most votes online as well. Indeed, of the 1,137 votes cast, 653 were in-person and 484 were online. Even if one were to entirely disregard the online votes cast – the results of the election would not have changed.
15. In the evidence before me, I only have the statement of one member, Flora Auger, who stated that the online system would not work for her, and I don't know if she was able to vote in-person. There was speculation about people using treaty numbers and dates of birth to vote online multiple times but no proof of this speculation was offered.
16. I find that the Election Code can be read to include online voting. If I am wrong, the results of the in person polling showed that Silas Yellowknee was the successful candidate, and this ground of appeal fails.

Issue #2 – Were the polling stations established correctly under the Election Code?**Summary of Information Received**

17. In the Notice of Appeal Mr. Noskiye stated that historically in other elections a polling station was set up in Ft. St. John, British Columbia, and in oral testimony he mentioned that a polling station has been set up in Ft MacMurray. The January 4, 2026 By Election did not have a polling station in Ft. St. John. Mr. Noskiye was of the view that the lack of a polling station in Ft. St. John affected the results of the By Election.
18. In his statement, Silas Yellowknee stated that he believed it was Council who had the choice of polling station locations [Document # 22].
19. On November 18, 2025 Council passed Band Council Resolution 060-25-26 [Document # 03] setting the polling stations in five locations:
 - (a) Wabasca;
 - (b) Calling Lake;
 - (c) Chipewyan Lake;
 - (d) Slave Lake; and
 - (e) Edmonton.
20. The Report from the Electoral Officer confirms that polling stations were held in the above five locations [Document # 18].

Election Code Sections

21. Section 10.3(a) of the Election Code addresses the location of polling stations and is reproduced below (emphasis added):
 - 10.3. Location and Hours of Polling Stations
 - (a) Polling stations shall be located at BCN's Administration Office and at locations in the Calling Lake and Chipewyan Lake Communities **and such other locations, as may be determined by Council from time to time.**

- (b) Polling stations shall remain open from 9:00 n.m. to 7:00 p.m. on an Election Day.
- (c) Any Elector who is in line in the polling station to vote at 7:00 p.m. is entitled to vote.
- (d) The decision of the Electoral Officer or a Polling Clerk on who is in line at a polling station to vote at 7:00 p.m. is final.

Reasons

- 22. I find that the Election Code in section 10.3(a) requires three mandatory polling station locations, Wabasca, Calling Lake and Chipewyan Lake, and polling stations were held in those three mandatory locations. This complied with the Election Code.
- 23. In terms of the location of other polling stations, the Election Code gives that choice to Council through the language in section 10.3(a) “....*and such other locations as may be determined by Council from time to time*”. It is clear from this language in section 10.3(a) that Council has the authority to use its judgement to determine the location of additional polling stations. The location of polling stations may change over time and from election to election. It was Council’s choice to have two additional polling locations (Slave Lake and Edmonton) and I find that they were entitled to make this choice under the Election Code.
- 24. In summary, the location of the polling stations was correctly determined under the Election Code, and this ground of appeal fails.

Issue #3 – Did M. Auger improperly influence voters on behalf of S. Yellowknee at the Edmonton polling station? If she did improperly influence voters - does that amount to a Corrupt Election Practice per section 2.10 of the Election Code?

Summary of Information Received

- 25. Attached to the Notice of Appeal is a letter from Vina Baron who said that she was approached at the Edmonton polling station by a woman, who was later identified to her as Margo Auger, and that Margo wanted her to vote for her brother Silas Yellowknee.

Vina's statement says that she saw Margo talking to other voters and that she believed that Margo was trying to influence them as well. Vina did not attend the hearing.

26. In response, Margo Auger prepared a statement which she swore before a Commissioner of Oaths [Document #23]. Attached to her statement were screenshots of text messages and phone calls from election day. Margo's statement sets out where she was at various times during the day and that was confirmed by the phone calls and text messages. Margo stated that she was in the polling station around 1:45 p.m. for 5 - 7 minutes and that the only other voters she saw were her cousin and his wife.
27. During his questioning of Margo Auger, Mr. Noskiye made reference to text messages which he had from Margo's cousin. I ruled that I would not allow the text messages because they had not been disclosed in advance.
28. In closing argument Mr. Noskiye argued that I should not rely on the text messages because they could be fabricated.

Election Code

29. Under section 15.1(b) the outcome of an election can be challenged if a candidate is found to have promoted or aided a "Corrupt Election Practice". A "Corrupt Election Practice" is a defined term under section 2.10:

2.10 **"Corrupt Election Practices"** includes threats, forgery, bribery, coercion, and intimidation of any Elector, Electoral Officer, Polling Clerk or Interpreter by a Candidate or person acting on behalf of a Candidate with his or her consent or knowledge.

Reasons

30. I am persuaded by the testimony of Margo Auger and find that there is no proof that she was improperly influencing voters at the Edmonton polling station. I reached this finding for two reasons Vina's statement says that she was told by an unknown person that it

was Margo who approached her and this statement cannot be verified. The second reason which persuaded me to accept Margo's version of events is the level of detail in her recollection of election day.

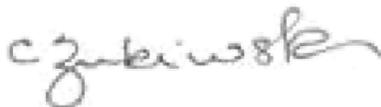
31. Even if I accept Vina's statements at face value and even if I accept that Margo asked Vina to vote for her brother Silas – that conduct does not amount to a Corrupt Election Practice for two reasons. A Corrupt Election Practice requires threats, bribery, coercion or intimidation, and there is nothing in Vina's statement that suggests such behaviour. Secondly, if there were this type of threatening behaviour, there must be proof before me that it was done with Silas' consent or knowledge, and there is no such proof.
32. This ground of appeal fails.

Conclusion

33. Having found that all three grounds of appeal fail I dismiss the appeal. I would like to thank the parties and witnesses who appeared at the hearing and the witnesses who prepared written statements.

Dated on March 31, 2026

Election Appeal Arbitrator



Carol M. Zukiwski

Appendix 1 – Background to the Appeal

Due to the resignation of Chief Andy Alook, a by election was held on January 4, 2026. In accordance with the Election Code T. Mandamin was appointed as the first Election Appeal Arbitrator.

The first Election Appeal Arbitrator determined that the requirements for a valid appeal were met, and I agree with that finding. The first Election Appeal Arbitrator directed disclosure of Documents #01 to #25 on the Document List. A Hearing was scheduled, however due to a challenge to the neutrality of the Arbitrator, the hearing did not proceed.

I was appointed as the Election Appeal Arbitrator by Band Council Resolution [Document # 26]. I reached out to the parties to schedule a Hearing in Wabasca on Wednesday, March 25, 2026 [Document # 27]. I also provided the parties with a proposed Agenda for the Hearing [Document #27] and the list of documents previously disclosed before the prior arbitrator and which I would have at the Hearing [Document #28]. On March 11th I advised the parties that I did not expect the Electoral Officer would attend the Hearing and indeed he did not. I stated that I was not exercising my authority to compel the attendance of the Electoral Officer. My reason for this decision is that none of the grounds in the Notice of Appeal allege any error by the Electoral Officer.

L. Bouchard made a request on March 12, 2026 to submit additional documents. L. Bouchard was a candidate, and she provided a witness statement which was attached to the Notice of Appeal. I asked Ms. Bouchard to describe the additional documents she wanted to submit, and how they related to the issues set out in the Notice of Appeal. No response was received and no additional documents were produced.

Due to snowfall and poor highway conditions a virtual connection in addition to the in-person hearing was organized. Silas Yellowknee attended in person, Jason Noskiye, Lillian Bouchard and Margo Auger attended via Zoom. I attended virtually and there were 53 observers attending virtually. I advised the people attending the hearing that the only recording of the hearing permitted was the recording that I made. In response to a question

from an observer I explained that the recording would not be shared. The purpose of the recording was to assist the Court should a party file for judicial review of my decision. I also explained that I was required under the Code to provide written reasons which would be posted in public places on the Nation and provided to the parties.

Appendix 2 – Concerns Outside the Scope of the Appeal

On March 16, 2026, by email to the parties I advised that the scope of my authority was tied to the issues set out in the Notice of Appeal [Document #28]. At the start of the Hearing on March 25th and at the conclusion of the Hearing I reviewed the issues that were before me.

Lillian Bouchard and Carolyn Auger are two members who wrote statements as witnesses in support of the appeal. In their statements Lillian and Carolyn also relayed their observations about:

- (a) the manner in which the Electoral Officer counted ballots;
- (b) whether an elder had been properly helped;
- (c) family members of a candidate sitting with an interpreter when the ballots were counted;
- (d) two unnamed members who were not allowed to vote;
- (e) conflict of interest of family members assisting with the election;
- (f) automated text messages encouraging a vote for Silas Yellowknee; and
- (g) a list of members with dates of birth and treaty numbers circulating in the community.

The concerns expressed above in items (a) – (g) were not grounds listed in the Notice of Appeal and I consider them to be outside the scope of my power to decide. They should have been the subject of a separate appeal. A witness, through a written statement, cannot add issues to Appeal.