

COURT FILE NUMBER 1103 14112

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

IN THE MATTER OF THE TRUSTEE ACT,
R.S.A. 2000, c. T-8, AS AMENDED, and

IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS
SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN,
OF THE SAWRIDGE INDIAN BAND, NO. 19 now known as
SAWRIDGE FIRST NATION ON APRIL 15, 1985 (the "1985
Trust") and the SAWRIDGE TRUST ("Sawridge Trust")

APPLICANT ROLAND TWINN, CATHERINE TWINN, BERTHA
L'HIRONDELLE, CLARA MIDBO AND WALTER FELIX TWIN, as
Trustees for the 1985 Trust and the 1986 Trust ("Sawridge
Trustees")

DOCUMENT **AGREED STATEMENT OF FACTS**

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AGREED STATEMENT OF FACTS

The Parties agree that the following numbered statements will be found as facts and are admissible as evidence for the purposes of any subsequent hearing or trial without further or formal proof and without prejudice to the right of the Parties to adduce any additional evidence, provided that the Parties shall not call evidence that is contrary to the evidence in this Statement of Agreed Facts.

The documents appended hereto are true copies of the original documents and may be accepted as evidence without proof of or production of the original thereof.

| | Fact | Source | Document attached |
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| | LEGISLATIVE HISTORY | | |
| 1. | Historically, the lineage of an Indian person was sometimes determined using the matrilineal family line, and other times using the patrilineal line, depending on the historical practice of the particular band. | The Report of the Royal Commission on Aboriginal Peoples (Ottawa: Supply and Services Canada, 1996) (" Royal Commission Report "), Volume 4 - "Perspectives and Realities," Chapter 2 – "The Indian Act". | Royal Commission Report, Volume 4, Chapter 2, page 48 |
| 2. | The first definition of "Indian" was seen in 1850 as a result of the presence of non-Indian men married to Indian women living on reserve. "Indian" was defined in land protection legislation for purposes of residency on the protected reserve land base, and included only a person of Indian blood or someone married to a person of Indian blood. A year later, non-Indian men married to Indian women were specifically excluded from the definition. | Royal Commission Report, Volume 1, Chapter 9 – "The Indian Act" Volume 4, Chapter 3.1 <i>An Act for the better protection of Lands and Property of the Indians in Lower Canada</i> , SC 1850, c 42 (13 & 14 Vict.), Part V. | Royal Commission Report, Volume I, Chapter 9, page 248 Volume 4, chapter 3.1, page 24 <i>An Act for the better protection of Lands and Property of the Indians in Lower Canada</i> , SC 1850, c 42, Part V. |
| 3. | In 1869, the <i>Gradual Enfranchisement Act</i> was passed removing Indian status from an Indian woman who married a non-Indian man and denying her children Indian status. | An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act, (31 Vict.) c. 42, S.C. 1869, c. 6 [" <i>Gradual Enfranchisement Act</i> "] Section 6 | " <i>Gradual Enfranchisement Act</i> " Section 6 |
| 4. | These laws were incorporated into the first <i>Indian Act</i> in 1876 and maintained until the enactment of Bill C-31 in 1985. | An Act to amend and consolidate the laws respecting Indians, S.C. 1876, c. 18 (39 Vict.) (" Indian Act 1876 ") [Assented to 12th April, 1876.] Section 3(c) Royal Commission Report, Volume 1, chapter 9.13 | <i>Indian Act</i> , 1876 Section 3(c) Royal Commission Report, Volume 1, chapter 9.13, page 276. |
| 5. | Also incorporated into the first <i>Indian Act</i> was the provision that in certain circumstances the band could exclude an illegitimate child | <i>Indian Act</i> , 1876 Section 3(a) | <i>Indian Act</i> , 1876 Section 3(a) |

| | Fact | Source | Document attached |
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| | from band membership under a proceeding sanctioned by the Superintendent-General. | | |
| 6. | Determining the lineage of an Indian person in the Indian Act using only the patrilineal family line was the application of European patrilineal assumptions by a patriarchal society. | Royal Commission Report, Volume 4 - "Perspectives and Realities," Chapter 2 – "The Indian Act" | Royal Commission Report, Volume 4, Chapter 2, page 27 |
| 7. | During the 1946-48 parliamentary hearings on revising the <i>Indian Act</i> , Indian affairs officials were candid in their motivation to exclude Indian women who married non-Indian men from the definition of Indian, so as to substantially reduce the number of people for whom the Dominion would then be responsible, and for whom the federal government would thereafter be responsible for all time. | Royal Commission Report, Volume I - "Looking Forward, Looking Back," Chapter 9 – "The Indian Act" | Royal Commission Report, Volume I, Chapter 9, page 280 |
| 8. | Indian status and band membership were directly linked in the various versions of the <i>Indian Act</i> before 1985. Only individuals who were entitled to registration as a status Indian were entitled to be put on a band list by the Registrar (the government official who was placed in charge of band membership lists). Thus, if someone was "not entitled to be registered" or lost Indian status under the <i>Indian Act</i> , that person lost his or her band membership (or was not entitled to be a member of a band in the first place). | <i>Indian Act</i> 1876 Subsection 3(3) <i>Indian Act</i> , S.C. 1951, c. 29 (15 Geo. VI) (" Indian Act 1951 ") Sections 5-7 <i>Indian Act</i> , R.S.C. 1970, c. I-6 (" Indian Act 1970 ") Sections 5-7 | |
| 9. | A person could be admitted into band membership, or transferred from the membership of one band to another, with the consent of the band council and approval of the Minister. The Minister might also direct that the band is required to approve such admission or transfer. | <i>Indian Act</i> 1951 Section 13 <i>Indian Act</i> 1970 Section 13 | <i>Indian Act</i> 1951 Section 13 <i>Indian Act</i> 1970 Section 13 |
| 10. | The removal of status from an Indian woman who married a non-Indian man (with consequent loss of band membership) and denial of Indian status for her children remained in the <i>Indian Act</i> until the introduction of Bill C-31 in 1985. | <i>Indian Act</i> , 1951 Subsection 12(b) <i>Indian Act</i> 1970 Subsection 12(b) | <i>Indian Act</i> 1951 Subsection 12(b) <i>Indian Act</i> 1970 Subsection 12(b) |

| | Fact | Source | Document attached |
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| 11. | Pursuant to the <i>Indian Act</i> , 1951 as it was enacted, the Registrar decided whether the father of an illegitimate child of an Indian woman was himself Indian, and if the child's father was not registered under the <i>Indian Act</i> , the child was not entitled to registration (and thus not entitled to be a band member). | <i>Indian Act</i> 1951, Subsection 11(e) | <i>Indian Act</i> , 1951 Subsection 11(e) |
| | INDIAN ACT, 1970 | | |
| 12. | Registration was linked to band membership and the male family line, and extended to Indian or non-Indian wives and widows of status males. Women who had gained status by marrying an Indian and then became a former spouse or widow would lose status (and band membership) by remarrying a non-Indian man. An illegitimate child of a woman could also qualify for registration and band membership, unless successfully protested as described below. | <i>Indian Act</i> 1970 section 11 | <i>Indian Act</i> 1970 section 11 |
| 13. | An Indian woman who married a non-Indian man was not entitled to be registered and thus lost status (and membership), unless she subsequently became the wife or widow of a person entitled to be registered under section 11 of the <i>Indian Act</i> 1970. | <i>Indian Act</i> 1970 Section 12(1)(b) | <i>Indian Act</i> 1970 Section 12(1)(b) |
| 14. | Illegitimate children of an Indian woman were not entitled to registration (and membership) if there was a protest made within 12 months of the child's addition to a Band List and upon such protest it was decided that the child's father was not an Indian. | <i>Indian Act</i> 1970 Subsection 12(2) | <i>Indian Act</i> 1970 Subsection 12(2) |
| | 1982 TRUST | | |
| 15. | Chief Walter Twinn executed a Trust Deed on April 15, 1982 as settlor. He was the settlor at the direction of the SFN Council ("1982 Trust"). | Affidavit of Paul Bujold September 6, 2011 paragraph 3. Affidavit of Paul Bujold February 15, 2017 paragraph 19. | 1982 Trust Deed. TAB 1 Affidavit of Paul Bujold September 6, 2011, Paragraph 3. |

| | Fact | Source | Document attached |
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| | | | TAB 2 Affidavit of Paul Bujold February 15, 2017 paragraph 19. TAB 3 |
| 16. | By Court Order dated August 24, 2016 the assets of the 1982 Trust were deemed to have been transferred from the 1982 Trust to the 1985 Trust. | Court Order dated August 24, 2016. | Court Order dated August 24, 2016. TAB 6 |
| 17. | The establishment of the 1982 Trust would enable the SFN to provide long term benefits to the members of SFN. | Affidavit of Paul Bujold September 13, 2011, paragraph 9-12. | Affidavit of Paul Bujold September 13, 2011-paragraph 9-12. TAB 8 |
| 18. | The 1982 Trust defined the beneficiaries as members of the SFN as membership was defined in 1982 in the Indian Act. | 1982 Trust Deed, paragraph 6. | 1982 Trust Deed. TAB 1 |
| 19. | The 1982 Trust defined the beneficiaries as members of the SFN, as membership was defined in 1982 in the Indian Act. | 1982 Trust Deed, paragraph 6. | 1982 Trust Deed. TAB 1 |
| 20. | The source of funding for the 1982 Trust was the resource revenue of the SFN which was held in trust by the federal government. The funds were to be used for members of the SFN. | Testimony of Chief Walter Twinn. | Testimony of Chief Walter Twinn TAB 19 |
| 21. | The preamble to the 1982 Trust says that the Settlor settled property in the trust for the present and future members of SFN. | | 1982 Trust Deed. TAB 1 |
| 22. | Pursuant to paragraph 6 of the 1982 Trust Deed the Trustees were to hold the trust fund for the present and future members of SFN. | | 1982 Trust Deed. TAB 1 |
| | BILL C-31 | | |
| 23. | In the 1970s, opposition was growing in Canada to the <i>Indian Act</i> provisions that discriminated against Indian women who married non-Indians. Calls for legislative reform were made by newly formed | Legislative Summary, <i>Bill C-3: Gender Equity in Indian Registration Act</i> , Parliamentary Information and Research Service – Social Affairs Division (Ottawa: Library of Parliament - Publication | <i>Legislative Summary – Bill C-3</i> , page 2. |

| | Fact | Source | Document attached |
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| | First Nations women's groups, human rights organizations and other bodies. | No. 40-3-C3-E, March 18, 2010) [" <i>Legislative Summary – Bill C-3</i> "]. | |
| 24. | On April 17, 1982 the Constitution Act, 1982 which included the Canadian Charter of Rights and Freedoms ("Charter") came into force. | Affidavit of Paul Bujold September 13, 2011, paragraph 13. | Affidavit of Paul Bujold September 13, 2011-paragraph 13. TAB 8 |
| 25. | Section 15 of the <i>Charter of Rights and Freedoms</i> came into force on April 17, 1985. | <i>The Constitution Act, 1982</i> , being Schedule B to the <i>Canada Act 1982 (UK)</i> , 1982, c 11, Part 1, <i>Canadian Charter of Rights and Freedoms</i> (" Charter "), sections 15, 32(2) | <i>Charter</i> , sections 15, 32(2) |
| 26. | After the Charter came into force, the Federal Government began the process of amending the Indian Act R.S.C. 1970 c.I-6. Bill C-31 was introduced and passed to address certain provisions of the Indian Act relating to membership which were discriminatory. | Affidavit of Paul Bujold September 13, 2011, paragraph 14. | Bill C-31 Exhibit F to the Affidavit of Paul Bujold September 13, 2011. TAB 9 Affidavit of Paul Bujold September 13, 2011 TAB 8. |
| 27. | In 1985, Bill C-31 was introduced, the objective of which was to remove discrimination based on sex from the <i>Indian Act</i> , restore status and membership rights to those who had lost them on the basis of that discrimination, and to recognize Indigenous control over band membership. | <i>House of Commons Debates</i> , 33rd Parl., 1 st Sess., Vol. 2, (1 March 1985) (Hon. David Crombie, Minister of Indian Affairs and Northern Development) | <i>House of Commons Debates</i> , 33rd Parl., 1 st Sess., Vol. 2, (1 March 1985) at 2646 |
| 28. | In tabling the legislation, the Honourable Minister David Crombie explained that Bill C-31 was based on five principles: i. Discrimination based on sex should be removed from the <i>Indian Act</i> . ii. Status under the <i>Indian Act</i> and band membership will be restored to those whose status and band membership were lost as a result of | <i>House of Commons Debates</i> , 33rd Parl., 1 st Sess., Vol. 2, (1 March 1985) (Hon. David Crombie) | <i>House of Commons Debates</i> , 33rd Parl., 1 st Sess., Vol. 2, (1 March 1985) at 2645 |

| | Fact | Source | Document attached |
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| | <p>discrimination in the <i>Indian Act</i>.</p> <p>iii. No one should gain or lose their status as a result of marriage.</p> <p>iv. Anyone who has acquired rights should not lose those rights.</p> <p>v. Indian bands that desired to do so would be able to determine their own membership.</p> | | |
| 29. | As part of the proposed changes to remove discrimination based on sex from the <i>Indian Act</i> , an Indian woman would no longer lose her Indian status by marrying a non-Indian. | <i>Senate Debates</i> , 33rd Parl., 1st Sess., Vol. 2, (17 June 1985) (Hon. Nathan Nurgitz) | <i>Senate Debates</i> , 33rd Parl., 1st Sess., Vol. 2, (17 June 1985) at 1039 |
| 30. | Also, the definition of “child” would be amended to include illegitimate children (restated as children born out of wedlock), the purposes of which were to achieve the equal treatment of children, and to enable more equal transmission of status by Indians to their children. | <i>House of Commons Debates</i> , 33rd Parl., 1st Sess., Vol. 4, (10 June 1985) (Hon. David Crombie) | <i>House of Commons Debates</i> , 33rd Parl., 1st Sess., Vol. 4, (10 June 1985) at 5564 |
| 31. | Another important provision of Bill C-31 was giving meaningful control to bands over the determination of their own membership. | <i>Senate Debates</i> , 33rd Parl., 1st Sess., Vol. 2, (17 June 1985) (Hon. Nathan Nurgitz) | <i>Senate Debates</i> , 33rd Parl., 1st Sess., Vol. 2, (17 June 1985) (Hon. Nathan Nurgitz) at 1039 |
| 32. | Much of the debate in the House of Commons surrounded the balancing of Indian band self-government (e.g. determining band membership) and correcting the discrimination issues in the previous iterations of the <i>Indian Act</i> . | See for example: <i>House of Commons Debates</i> , 33rd Parl., 1st Sess., Vol. 4, (11 June 1985) (Hon. Sheila Finestone and Hon. Jack Shields) | <i>House of Commons Debates</i> , 33rd Parl., 1st Sess., Vol. 4, (11 June 1985) at 5620-21. |
| 33. | In moving the second reading of Bill C-31 in the Senate, the Bill was said to represent a “careful and fair balance” between the elimination of discrimination/restoration of rights and the right of bands to control membership. It was estimated that between 40,000-70,000 people would be eligible for status and band membership under the provisions of Bill C-31. | <i>Senate Debates</i> , 33rd Parl., 1st Sess., Vol. 2, (17 June 1985) (Hon. Nathan Nurgitz) | <i>Senate Debates</i> , 33rd Parl., 1st Sess., Vol. 2, (17 June 1985) at 1038-42 |
| 34. | Bill C-31 was enacted on June 28, 1985, but made retroactive to April 17, 1985. | Bill C-31, section 23. | Bill C-31, section 23. |

| | Fact | Source | Document attached |
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| | INDIAN ACT, 1985 | | |
| 35. | Bands were given the ability to assume control over their own membership and, in association with assuming such control, the authority to enact their own membership rules. | <i>Indian Act</i> R.S.C 1985, c. I-6 (" Indian Act 1985 "), Section 10 | <i>Indian Act</i> 1985 Section 10 |
| 36. | The <i>Indian Act</i> 1985 changed the relationship between Indian status and membership. Since bands were entitled to set their own membership rules, and the government no longer fully controlled band lists, it became possible for people to have Indian status but not be members of a band, and for people without Indian status to become members of a band that had assumed control of its membership. | Tab O pages 40-41 | |
| 37. | Persons entitled to status immediately prior to April 17, 1985 are also so entitled under the <i>Indian Act</i> 1985. This included non-Indian women who married an Indian man prior to April 17, 1985, unless they subsequently lost status. However, status is no longer conferred through marriage under the <i>Indian Act</i> , 1985. | <i>Indian Act</i> 1985, Subsections 6(1)(a), 7(a) | <i>Indian Act</i> 1985 Subsections 6(1)(a), 7(a) |
| 38. | Women who had lost their Indian status due to marrying a non-Indian man regained status. | <i>Indian Act</i> 1985 Subsection 6(1)(c) | <i>Indian Act</i> 1985 Subsection 6(1)(c) |
| 39. | The women who lost status and membership in SFN by marrying men who did not have First Nation Status, were given Indian status pursuant to Bill C-31 and were reinstated to membership either by applying to become members pursuant to the SFN Membership Code or by Court Order.. | Paul Bujold UT 32 from questioning May 27 & 28, 2014. 1985 Trust Deed. Sawridge Band v Canada [2003] 4 FC 748 ("Hugesson Decision") Bill C-31 Indian Act Affidavit of Records SAW00097. | 1985 Trust Deed. TAB 4 Hugesson Decision. TAB 14 Bill C-31 Indian Act SAW00097. |
| 40. | Illegitimate children of Indian women whose registration was successfully protested on the grounds that their father was not Indian became entitled to registration (but not necessarily membership). | <i>Indian Act</i> 1985 Subsection 6(1)(c) | <i>Indian Act</i> 1985 Subsection 6(1)(c) |

| | Fact | Source | Document attached |
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| 41. | Wives and widows of status males were no longer eligible to be registered simply by virtue of their marriage to the status male. | <i>Indian Act</i> 1985 Subsection 6(1) | <i>Indian Act</i> 1985 Subsection 6(1) |
| | 1985 TRUST | | |
| 42. | Chief Walter Twinn executed a Trust Deed on April 15, 1985 as settlor ("1985 Trust"). | Affidavit of Paul Bujold September 6, 2011 paragraph 4. | 1985 Trust Deed. TAB 4 Affidavit of Paul Bujold September 6, 2011 paragraph 4. TAB 2 |
| 43. | Funds and assets in the 1985 Trust were derived from investment of a portion of oil and gas revenues that belonged to the Sawridge First Nation ("SFN"). | Affidavit of Paul Bujold September 13, 2011, paragraph 7. | Affidavit of Paul Bujold September 13, 2011-paragraph 7-20. TAB 8 |
| 44. | The 1985 Trust was created to preserve assets for members as that term was defined by legislation prior to Bill C-31. | Affidavit of Paul Bujold September 13, 2011, paragraphs 15 and 18. | Affidavit of Paul Bujold September 13, 2011-paragraphs 15 & 18. TAB 8 |
| 45. | The definition of beneficiary in the 1985 Trust is discriminatory. | Court Order dated January 19, 2018. | Court order January 19, 2018. TAB 10 |
| 46. | The 1985 Trust Deed defined beneficiaries as members of SFN as membership was defined in 1982 in the Indian Act. | 1985 Trust Deed, paragraph 2(a). Code of Conduct, Schedule A, paragraph 2(a). | 1985 Trust Deed. TAB 4 Code of Conduct, Schedule A. TAB 15 |
| 47. | Pursuant to section 11 of the 1985 Trust Deed, no amendment of the Trust shall be valid or effective to the extent that it changes or alters in any manner or to any extent, the definition of "Beneficiaries" under paragraph 2(a) of the Trust Deed. | Paragraph 11 of the 1985 Trust Deed. Affidavit of Paul Bujold February 15, 2017 paragraph 9 (b). | 1985 Trust Deed. TAB 4 Affidavit of Paul Bujold February 15, 2017 paragraph 9 (b). TAB 12 |
| 48. | The current definition of | Bill C- 31 | Bill C-31 |

| | Fact | Source | Document attached |
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| | beneficiaries in the 1985 Trust discriminates against the Bill C-31 women as they are members of the Sawridge First Nation but are not beneficiaries of the 1985 Trust. The Bill C-31 women are those women who married a non-indigenous First Nation male and thus lost Indian status under the Indian Act and also lost their membership in the First Nation. | Court Order dated January 19, 2018. | TAB 9 Court Order January 19, 2018. TAB 10 |
| 49. | The children of women who regained Indian status and membership post Bill C-31 were not given membership in SFN. They must apply to be members of SFN. | Hugesson decision. | Hugesson Decision. TAB 14 |
| 50. | Assets from the 1982 Trust were transferred from the 1982 Trust to the 1985 Trust. After 1985 no other assets were transferred to the 1985 Trust. | Court order dated August 24, 2016. Affidavit of Paul Bujold of September 13, 2011, paragraph 20, 22 and 30. | Court order dated August 24, 2016. TAB 6 Affidavit of Paul Bujold of September 13, 2011, paragraphs 20, 22 & 30. TAB 8 |
| 51. | There have been no distributions to beneficiaries of the 1985 Trust since it was created in 1985. | Questioning of Paul Bujold July 27, 2016 page 55, lines 15-18. | Questioning of Paul Bujold July 27, 2016 page 55. TAB 18 |
| 52. | The beneficiaries of the 1985 Trust are determined by analyzing the 1970 Indian Act as it existed in 1982. Only those persons who qualify as members of SFN according to the Indian Act as it existed in 1982 could qualify as beneficiaries. | Indian Act R.S.C. 1970 sections 10, 11, and 12. | Indian Act sections 10, 11 and 12. TAB 45 |
| 53. | The definition of beneficiaries in 1985 Trust is set according to the Indian Act in 1982 and therefore if a woman marries a non-Indian she will cease to be a beneficiary. | Indian Act 1970 section 11 – 14. Letter from Arlene Twinn – Affidavit of Records SAW000652. | Indian Act 1970 section 11 – 14. TAB 45 Letter from Arlene Twinn SAW000652. TAB 48 |

| | Fact | Source | Document attached |
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| 54. | The determination of the beneficiaries under the 1985 Trust using the 1970 Indian Act continues to discriminate against members of the SFN. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 72. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 72. TAB 29 |
| 55. | The purpose of the 1985 Trust was to provide for the economic future of the SFN members. | Questioning of Paul Bujold May 27 and 28 2014: Page 75. | Exhibit H September 12, 2011 Affidavit of Paul Bujold. TAB 33 Questioning of Paul Bujold May 27 and 28 2014: Page 75. TAB 34 |
| 56. | In the preamble to the 1985 Trust Deed it says that the Settlor settled the trust for the members of the SFN as at the date of execution of the Trust Deed and future members as such provisions existed on April 15, 1952. | | 1985 Trust Deed. TAB 4 |
| 57. | The source of funds in the 1982 and 1985 Trusts is from the capital and revenue accounts held by Indian Affairs for the SFN. The funds were paid out of the capital and revenue accounts pursuant to s.64 and s.69 of the <i>Indian Act</i> on the condition that the funds or assets purchased with the funds would be held in trust for the members of the SFN. Sawridge was required to provide confirmation that the funds distributed to the SFN pursuant to s.64 and s.69 of the <i>Indian Act</i> were in trust for the members of the Band. The Audit Reports provided to Indian Affairs show that the members of the SFN transferred assets to the Sawridge Band Trust which was a trust formed for the benefit of the members of the SFN. The Minister had a statutory responsibility to ensure monies released to the Band, pursuant to sections 61 to 69 of the <i>Indian Act</i> were used for the benefit of the Band and its members. SFN had to satisfy the Minister that the capital | Correspondence dated: November 9, 1994 October 20, 1994 July 7, 1994 August 29, 1994 March 21, 1994 March 24, 1994 March 30, 1994 March 16, 1994 December 23, 1993 | Correspondence dated: November 9, 1994 October 20, 1994 July 7, 1994 August 29, 1994 March 21, 1994 March 24, 1994 March 30, 1994 March 16, 1994 December 23, 1993 TAB 42 |

| | Fact | Source | Document attached |
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| | and revenue monies were expended pursuant to s.64 and s.66 of the <i>Indian Act</i> for the benefit of the members of the Band. | | |
| 58. | A Band Council Resolution ("BCR") dated April 15, 1985 said that the 1985 Trust was created to protect the interest of the members of SFN. | BCR April 15, 1985 | BCR April 15, 1985 TAB 43 |
| 59. | The trustees of the 1985 Trust intend to provide social service type supports to the beneficiaries. | Sawridge type benefits Affidavit of Records SAW000699 to 722 | Sawridge type benefits Affidavit of Records SAW000699 to 722 TAB 38 |
| | 1986 TRUST | | |
| 60. | Chief Walter Twinn executed a Trust Deed on August 15, 1986 as settlor ("1986 Trust"). | Affidavit of Paul Bujold September 6, 2011, paragraph 5 | 1986 Trust Deed TAB 5 Affidavit of Paul Bujold September 6, 2011 paragraph 5 TAB 2 |
| 61. | The 1986 Trust was established so that assets that came into existence after April 15, 1985 could be held in trust for those individuals who qualified as members in accordance with the definition of membership that existed in the post Bill C-31 era. | Affidavit of Paul Bujold September 13, 2011, paragraph 29-31 | Affidavit of Paul Bujold September 13, 2011- paragraph 29-31 TAB 8 |
| 62. | The Settlor of the 1985 Trust intended to combine the 1985 Trust and the 1986 Trust once the results of Bill C-31 were known. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 75 | The testimony of Chief Walter Twinn TAB 30 Affidavit of Paul Bujold dated February 15, 2017 paragraph 75 TAB 31 |

| | Fact | Source | Document attached |
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| 63. | The trustees have deemed it a benefit to a beneficiary to provide support for minors who are children of beneficiaries in the 1985 and 1986 Trust. | Affidavit of Paul Bujold September 30, 2011, paragraphs 5 and 6 | Affidavit of Paul Bujold September 30, 2011, paragraphs 5 & 6 TAB 11 |
| 64. | Pursuant to paragraph 11 of the 1986 Trust Deed, there is no restriction on amending the definition of beneficiary. | Paragraph 11 of the 1986 Trust Deed | 1986 Trust Deed TAB 5 |
| 65. | Section 11 of the 1986 Trust Deed, provides for an amendment for comingling of the assets and a consolidation of the administration of the 1986 Trust with the assets and administration of any other trust established for the benefit of all or any of the beneficiaries. | Paragraph 11 1986 Trust Deed | 1986 Trust Deed TAB 5 |
| 66. | Beneficiaries are defined in the 1986 Trust as all persons who at that time qualify as members of the SFN under the laws of Canada in force from time to time including without restricting the generality of the foregoing, the membership rules and customary laws of the SFN as the same may exist from time to time to the extent that such membership rules and customary laws are incorporated into, or recognized by, the laws of Canada. | Paragraph 2(a) 1986 Trust Deed | 1986 Trust Deed TAB 5 |
| 67. | The 1986 Trust defined beneficiaries as members of the SFN as membership was defined in 1986. | 1986 Trust Deed, paragraph 2(a). | 1986 Trust Deed TAB 5 |
| 68. | The 1986 Trust Deed says property was settled in the trust for the benefit of the SFN members. | | 1986 Trust Deed TAB 5 |
| 69. | The 1986 Trust provides benefits to beneficiaries for health, education, addictions, recreation, senior support, funeral costs, compassionate care, etc. | Trust Benefits. Questioning on Affidavit of Paul Bujold of February 15, 2017 held March 7-10, 2017 - pages 46 to 48. | Trust benefits. TAB 38 Questioning on Affidavit of Paul Bujold of February 15, 2017 pages 46 to 48. TAB 39 |

| | Fact | Source | Document attached |
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| | MEMBERSHIP | | |
| 70. | SFN controls its membership through its Membership Code. | Membership Code | Membership Code TAB 27 |
| 71. | The issue of membership is not to be examined in the 1103 14112 action pursuant to a Court Order. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 65. Court order dated December 17, 2015. | Court Order dated December 17, 2015 (Sawridge #3). TAB 21 Affidavit of Paul Bujold dated February 15, 2017 paragraph 65. TAB 28 |
| 72. | Membership in SFN is the jurisdiction of SFN pursuant to its Membership Code. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 77. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 77. TAB 32 |
| 73. | The only people who have an automatic right to membership are the natural children of two band members. | Questioning of Paul Bujold May 27 and 28 2014: Page 120. | Questioning of Paul Bujold May 27 and 28 2014: Page 120. TAB 35 |
| 74. | Determining Membership in SFN is the legal responsibility of SFN. | Questioning of Paul Bujold May 27 and 28 2014: Page 177. | Questioning of Paul Bujold May 27 and 28 2014: Page 177. TAB 37 |
| 75. | In July, 1985 the SFN adopted its Membership Code to take control of its own membership including admitting new members to the SFN. The Membership Code of SFN was approved by the Federal Government in October, 1985. | Membership Rules. Undertaking 41 of Paul Bujold Questioning of May 27 & 28, 2014. Resolution adopting Membership Rules July , 4,1985 Affidavit of Records SAW000166 – 46. | Membership Rules. TAB 27 Undertaking 41 of Paul Bujold Questioning of May 27 & 28, 2014. |

| | Fact | Source | Document attached |
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| | | | Resolution adopting Membership Rules July , 4,1985. TAB 41 |
| 76. | Neither the OPGT nor the Sawridge Trustees are to engage in collateral attacks on SFN membership processes. | Order of Justice Thomas December 17, 2015, paragraph 15. | Order of Justice Thomas December 17, 2015. TAB 21 |
| 77. | A person may not be a member of more than one First Nation at any given time. Persons who are members of another First Nation cannot be beneficiaries of the 1985 Trust. | Indian Act R.S.C. 1970 section 13. Constitution of SFN Article 3 section 4 Affidavit of Records SAW 0000424. | Indian Act section 13. TAB 45 Constitution of SFN Article 3 section 4 Affidavit of Records SAW 0000424. TAB 46 |
| 78. | The membership Code of SFN governs who is made a member of SFN. | Membership Code Exhibit 5 to questioning of Paul Bujold May 27, 2014. | Membership Code Exhibit 5 to questioning of Paul Bujold. TAB 27 |
| 79. | In order to become a member of SFN a person must complete an application to submit to SFN and the application is processed as set out in the Membership Code unless they have a specific right to have their name entered on the SFN Membership list. | Membership application form Exhibit 6 to questioning of Paul Bujold May 27, 2014. | Membership application firm Exhibit 6 to questioning of Paul Bujold May 27, 2014. TAB 47 |
| | GENERAL | | |
| 80. | By Court Order dated August 31, 2011 service of documents in the 1103 action was directed on individuals and the Order established a website for service of future documents. | Court Order Dated August 31, 2011. | Court Order dated August 31, 2011. TAB 7 |

| | Fact | Source | Document attached |
|------------|--|---|--|
| 81. | There are no customary laws of the SFN which are incorporated into or recognized by the law of Canada. | | |
| 82. | The SFN is only comprised of four family groups, Twinns, Twins, Potskins and Wards. The number of members is approximately 45 members as at February 15, 2017. | Affidavit of Paul Bujold of February 15, 2017 paragraph 8. | Affidavit of Paul Bujold of February 15, 2017- paragraph 8. TAB 13 |
| 83. | To date no SFN member has had his or her membership revoked. | Questioning of Paul Bujold July 27, 2016 pages 47 and 48. Affidavit of Paul Bujold of February 15, 2017 Paragraph 39 (c). | Questioning of Paul Bujold July 27, 2017. TAB 16 Affidavit of Paul Bujold of February 15, 2017 Paragraph 39 (c). TAB 17 |
| 84. | One of the purposes of the 1103 action was to be able to provide benefits to the beneficiaries of the 1985 Trust. | Questioning of Paul Bujold July 27, 2016 Page 60, Lines 16-24 | Questioning of Paul Bujold July 27, 2016 page 60 TAB 20 |
| 85. | In both the 1985 Trust Deed and the 1986 Trust Deed decisions are to be made by the trustees by majority rule. | Affidavit of Paul Bujold dated February 15, 2017 paragraphs 4, 57. August 25, 2005 minutes Exhibit P to Affidavit of Paul Bujold dated February 15, 2017 paragraph 57. 1985 Trust Deed, paragraph 13. 1986 Trust Deed, paragraph 13. | August 25, 2005 minutes Exhibit P to Affidavit of Paul Bujold dated February 15, 2017 paragraph 57. TAB 24 Affidavit of Paul Bujold dated February 15, 2017 paragraphs 4 & 57. TAB 25 1985 Trust Deed. TAB 4 1986 Trust Deed. TAB 5 |

| | Fact | Source | Document attached |
|------------|--|---|---|
| 86. | The Code of Conduct governs both the 1985 and 1986 Trusts and says that majority rule governs the trustees in Schedule A, B1 and B2. | Code of Conduct. Affidavit of Paul Bujold dated February 15, 2017 paragraph 5. | Code of Conduct. TAB 15 Affidavit of Paul Bujold dated February 15 ,2017 paragraph 5. TAB 26 |
| 87. | SFN Members who have minor children currently receive benefits from the 1986 Trust that assist with raising children such as for education and health and recreation. If a SFN member has a child who attends post-secondary education, such member receives support to help fund post-secondary education expenses. | Questioning of Paul Bujold May 27 and 28 2014: Page 139-140. | Questioning of Paul Bujold May 27 and 28 2014: Page 139-140. TAB 36 |
| 88. | Section 42 of the Trustee Act requires 100% approval of all beneficiaries of the 1985 Trust to any amendment. | Section 42 Trustee Act of Alberta. | Trustee Act of Alberta – s.42. TAB 40 |
| 89. | To date there is not 100% approval among the beneficiaries of any amendment to the beneficiary definition of the 1985 Trust. | | |
| 90. | There are no customary laws of SFN that have been incorporated into the laws of Canada. | | |
| 91. | The current members of SFN are listed by SFN and include those persons who were on the list transferred from INAC to SFN in 1985 and are members admitted through the membership code and finally includes members who were admitted by Court Order as acquired right members. | Sawridge Membership List. | Sawridge Membership List. TAB 44 |

All the above facts are agreed to by:

McLennan Ross LLP

Hutchison Law

Karen Platten,

Janet Hutchison,

Counsel for Catherine Twinn

Counsel for the Office of the Public Guardian and
Trustee

Dentons Canada LLP

Doris Bonora,
Counsel for the Sawridge Trustees

DRAFT

**RESOURCES REVIEWED FOR
AGREED STATEMENT OF FACTS**

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| 1. | Paul Bujold questioning on undertakings and interrogatories June 20, 2017 completed. | | |
| 2. | Paul Bujold questioning by Borden Ladner Gervais November 29 2016 completed. | | |
| 3. | Paul Bujold Affidavit dated February 15, 2017. | | |
| 4. | The 1985 Trust Deed prohibits amendment of the definition of beneficiaries. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 9(b) 1985 Trust Deed. | 1985 Trust Deed. |
| 5. | The SFN consists of three family groups. As at February 15, 2017: 32 Twin(n) descendants, 8 Potskin descendants and 5 Ward descendants. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 8. | |
| 6. | Chief Walter Twinn was the Settlor of the 1985 Trust. He was the Settlor at the direction of the SFN Council. Funds were transferred from SFN to Chief Walter Twinn to fund the trust. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 19. | |
| 7. | No person has ever been removed from membership of SFN after becoming a member. | Affidavit of Paul Bujold dated February 15, 2017 paragraph 39(c). | |
| 8. | Questioning of Paul Bujold May 27 and 28 2014. | | |
| 9. | Questioning of Catherine Twinn of September 9, 2016. | | |
| 10. | Undertakings of Catherine Twinn from Questioning reviewed no admissions. | | |
| 11. | Transcript of Catherine Twinn September 9 2016 reviewed. | | |
| 12. | Review transcript of questioning of Catherine Twinn July 20 21 2017. | | |
| 13. | Questioning of Paul Bujold on Affidavit of February 15, 2017 reviewed. | | |
| 14. | Questioning of Paul Bujold March 8, 9 and 10, 2017 reviewed. | | |
| 15. | Answers to undertakings of Paul Bujold to his questioning of May 27 and 28, 2014. | | |

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| 16. | Questioning of Catherine Twinn December 15, 2016 reviewed. | | |
| 17. | Undertakings of paul Bujold reviewed from May 27 and 28, 2014. | | |
| 18. | Reviewed Patrick Twinn et al brief filed by Golding. | | |
| 19. | Reviewed documents from Affidavit of Records of Paul Bujold. | | |
| 20. | Review exhibits to questioning of Paul Bujold. | | |