

To all Beneficiaries and Potential beneficiaries of the Sawridge Band Inter Vivos Settlement dated April 15, 1985

The attached **draft** Agreed Statement of Facts is being proposed in the interests of shortening the final hearing on the matter in action number 1103 14112. The purpose of an Agreed Statement of Facts is that any facts that can be agreed upon by the parties will not have to be proven through witnesses, and the Justice who hears the final determination of this matter can rely on the evidence in the Agreed Statement of Facts.

We are posting this draft document such that any person who is a beneficiary or a potential beneficiary, but not a party to the action, may provide suggestions for facts that they wish to insert in the Agreed Statement of Facts. There is no certainty that the facts will be inserted. Please direct any suggestion for facts, and any document that might support that fact (if applicable), by April 30, 2018 to the attention of:

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The final version of the Agreed Statement of Facts will be posted to the website after July 15, 2018.

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**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Dentons Canada LLP
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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
	1982 TRUST		
1.	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. TAB 2 Affidavit of Paul Bujold February 15, 2017 paragraph 19. TAB 3
2.	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
3.	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
4.	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
5.	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
6.	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

	Fact	Source	Document attached
7.	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
8.	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		
9.	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
10.	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.
11.	Some Bill C-31 women and one man were ordered to be made members of the SFN by Order of the Court.	Sawridge Band v Canada [2003] 4 FC 748. Hugesson decision	Hugesson Decision. TAB 14
12.	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. Hugesson Decision.	1985 Trust Deed. TAB 4 Hugesson Decision. TAB 14
13.	Under Bill C-31 the Indian Act was amended to allow women who lost Indian status by marrying a non-Indian to regain status and membership.	Bill C-31 Indian Act Affidavit of Records SAW00097.	Bill C-31 Indian Act SAW00097. TAB 9

	Fact	Source	Document attached
	1985 TRUST		
14.	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
15.	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
16.	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
17.	The definition of beneficiary in the 1985 Trust is discriminatory.	Court Order dated January 19, 2018.	Court order January 19, 2018. TAB 10
18.	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
19.	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
20.	The current definition of beneficiaries in the 1985 Trust discriminates against the Bill C-31 women as they are members of the Sawridge First Nation but are not	Bill C- 31 Court Order dated January 19, 2018.	Bill C-31 TAB 9 Court Order

	Fact	Source	Document attached
	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.		January 19, 2018. TAB 10
21.	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 are members of the SFN but are not beneficiaries of the 1985 trust.	Paul Bujold UT 32 from questioning May 27 &28, 2014. 1985 Trust Deed. Hugesson Decision.	1985 Trust Deed. TAB 4 Hugesson Decision. TAB 14
22.	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
23.	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
24.	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
25.	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 are beneficiaries.	Indian Act R.S.C. 1970 sections 10, 11, and 12.	Indian Act sections 10, 11 and 12. TAB 45
26.	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
27.	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
28.	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
29.	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
30.	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	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
	Band and its members. SFN had to satisfy the Minister that the capital 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.		
31.	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
32.	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		
33.	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
34.	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
35.	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
36.	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
37.	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
38.	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
39.	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
40.	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
41.	The 1986 Trust Deed says property was settled in the trust for the benefit of the SFN members.		1986 Trust Deed TAB 5
42.	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
	MEMBERSHIP		
43.	The OPGT shall not conduct an open-ended inquiry in the membership of SFN and the historic disputes that relate to that topic.	Questioning of Paul Bujold July 27, 2016 page 74. Court order Sawridge #3 paragraph 3.	Court order Sawridge #3. (Order Filed August 17, 2016 and pronounced December 17, 2015). TAB 21 Questioning of Paul Bujold July 27, 2016 page 74. TAB 22
44.	There shall be no collateral attacks on the SFN membership processes.	Questioning of Paul Bujold July 27, 2016 page 76. Court order Sawridge #3 paragraph 15.	Court order Sawridge #3. TAB 21 Questioning of Paul Bujold July 27, 2016 page 76. TAB 23
45.	SFN controls its membership through its Membership Code.	Membership Code	Membership Code TAB 27
46.	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
47.	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.

	Fact	Source	Document attached
			TAB 32
48.	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
49.	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
50.	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. Resolution adopting Membership Rules July , 4,1985. TAB 41
51.	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
52.	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

	Fact	Source	Document attached
53.	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
54.	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		
55.	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
56.	There are no customary laws of the SFN which are incorporated into or recognized by the law of Canada.		
57.	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
58.	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
59.	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

	Fact	Source	Document attached
60.	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
61.	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
62.	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
63.	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
64.	To date there is not 100% approval among the beneficiaries of any amendment to the beneficiary definition of the 1985 Trust.		

	Fact	Source	Document attached
65.	The OPGT has no documents that are relevant to the 1103 action and thus will not file an affidavit of documents.		
66.	There are no customary laws of SFN that have been incorporated into the laws of Canada.		
67.	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
68.	The following individuals are the ones that the parties can agree qualify to be a beneficiary under the current definition of beneficiaries of the 1985 Trust Deed: <ol style="list-style-type: none"> 1. William McDonald 2. Jeanine Potskin 3. Jonathan Potskin 4. Trent Potskin 5. Autumn Twin 6. Brianne Twin 7. Logan Twin 8. River Twin 9. Haitina Twinn 10. Kaitlin Twinn 11. Courtney Twinn 12. Shannon Twinn 13. Shelby Twinn 14. Michelle Ward 15. Keanu Potskin 16. William Potskin 17. Laurie Anderson Twin 18. Clinton Twin 19. Graham Twinn 20. Melissa Megley 	<i>Indian Act</i> 1970, section 11 and 12. Definition of Beneficiary in the 1985 Trust Deed.	<i>Indian Act</i> 1970, section 11 and 12. TAB 45 1985 Trust Deed. TAB 4

All the above facts are agreed to by:

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DRAFT