



February 13, 2018

EDWARD H. MOLSTAD, Q.C.
DIRECT DIAL: 780.423.8506
DIRECT FAX: 780.423.2870
EMAIL: emolstad@parlee.com
OUR FILE #: 64203-23/EHM

Court of Appeal of Alberta
Registrar's Office
Law Courts Building
1A Sir Winston Churchill Square
Edmonton, Alberta T5J 0R2

DELIVERED VIA FAX
(780) 422-4127

Attention: Case Management Officer, Bobbi Jo McDevitt

Dear Madam:

Re: Priscilla Kennedy (A) v. Roland Twinn (R) and others
Appeal No. 1703-0239AC

We represent the Sawridge First Nation ("Sawridge"), a Respondent in the above-noted appeal. We write further to your telephone conversation with Ellery Sopko of our office on Friday, February 9th, in order to request the Court's permission to file, as part of our Extracts of Key Evidence, certain written materials (and/or documents attached to written submissions) that were before the Case Management Judge (the "CMJ") whose decision (*Sawridge #7*) is now being appealed. The applications at issue in the underlying action, which led to an award of personal costs against the Appellant, Priscilla Kennedy ("Ms. Kennedy"), were dealt with in writing by the CMJ in *Sawridge #6*.

We understand from a review of Rule 14.27(1)(c) and your conversation with Ms. Sopko that written submissions that were before the lower court are not usually permitted to be included in the Extracts of Key Evidence. It is our position that it is imperative that the panel have before them the written submissions filed by Ms. Kennedy on behalf of her clients in *Sawridge #6* and before the Federal Court in a prior judicial review, along with the filed application for judicial review and Maurice Stoney's supporting affidavit. All of these documents were before the CMJ. These documents include:

- (1) the Application for judicial review in Federal Court (being Tab 2 of Sawridge's September 28, 2016 written submissions before the CMJ);
- (2) Maurice Stoney's affidavit on the judicial review (being Tab 3 of Sawridge's September 28, 2016 written submissions before the CMJ);
- (3) Ms. Kennedy's written submissions on the judicial review (being Tab 2 of Sawridge's October 31, 2016 written submissions before the CMJ);

- (4) Ms. Kennedy's September 28, 2016 written submissions filed on behalf of her clients in *Sawridge #6* (without any authorities/attachments);
- (5) Ms. Kennedy's October 27, 2016 written submissions filed on behalf of her clients in *Sawridge #6* (without any authorities/attachments); and
- (6) Ms. Kennedy's November 15, 2016 written submissions filed on behalf of her clients in *Sawridge #6* (without any authorities/attachments).

Ms. Kennedy has put these submissions/documents in issue on appeal by stating that the legal theory underlying the Stoney Application in *Sawridge #6* was misunderstood by the CMJ and had never previously been adjudicated. We take issue with that position and intend to rely on the foregoing materials in our responding Factum. In our opinion, these materials are necessary to resolve this issue on appeal. Our intention is to include only the body of the written submissions and not the attachments, with the exception of Tabs 2 and 3 of our September 28, 2016 written submissions and Tab 2 of our October 31, 2016 submissions, as set out above.

We contacted the parties to appeal to get their position on the foregoing, and we can advise that the Sawridge Trustees have no concerns with our inclusion of the foregoing materials and that Ms. Kennedy's counsel, Jon Faulds, Q.C., responded as follows:

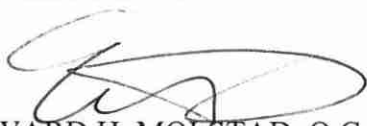
"Ms. Kennedy does not object to the inclusion of the identified materials provided she is afforded the opportunity to put before the Court any other submissions or materials that were before the Court below, for the purposes of response, clarification or context."

We have no objection to Ms. Kennedy's request that she be given an opportunity to put before the Court any other submissions or materials that were before the Court below for the purpose of response, clarification, or context.

We look forward to your direction as to whether Sawridge is permitted to include the materials listed above as part of its Extracts of Key Evidence due to be filed, along with its Factum and Book Authorities, by February 28, 2018.

Yours truly,

PARLEE McLAWS LLP



EDWARD H. MOLSTAD, Q.C.
EHM/elj

cc: P. Jonathan Faulds, Q.C. and Kimberly Precht Field LLP
Via email: jfaulds@fieldlaw.com; kprecht@fieldlaw.com

cc: Doris Bonora and Anna Loparco, Dentons Canada LLP
Via email: doris.bonora@dentons.co; anna.loparco@dentons.com

cc: Maurice Felix Stoney
500 4 Street
Slave Lake, AB T0G 2A1