

COURT OF APPEAL OF ALBERTA



COURT OF APPEAL FILE NUMBER: 1703-0193AC

TRIAL COURT FILE NUMBER: 1103-14112

REGISTRY OFFICE: Edmonton

PLAINTIFF/APPLICANT: Patrick Twinn, on his behalf, Shelby Twinn and Deborah A. Serafinchon

STATUS ON APPEAL: Appellant

DEFENDANT/RESPONDENT: Roland Twinn, Catherine Twinn, Walter Felix Twin, Berta L'Hirondelle, and Clara Midbo, As Trustees For The 1985 Sawridge Trust (The "1985 Sawridge Trustees" Or "Trustees")

STATUS ON APPEAL: Respondent

DEFENDANT/RESPONDENT: Public Trustee Of Alberta ("OPGT")

STATUS ON APPEAL: Respondent

DEFENDANT/RESPONDENT: Catherine Twinn

STATUS ON APPEAL: Respondent

DEFENDANT/RESPONDENT: Patrick Twinn, on behalf of his infant daughter, Aspeni Saya Twinn, and his wife Melissa Magley

STATUS ON APPEAL: Not a party to the Appeal

DOCUMENT: RESPONDENT'S EXTRACTS OF KEY EVIDENCE

**Fast Track**

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Appeal from the Order of  
The Honourable Mr. Justice D.R.G. Thomas  
Dated the 5th day of July, 2017  
Filed the 19th day of July, 2017

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**EXTRACTS OF KEY EVIDENCE OF THE RESPONDENTS, THE TRUSTEES  
VOLUME 1 of 1 (pages R1 to P218)**

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**BORDEN LADNER GERVAIS LLP**

1900, 520 Third Avenue SW  
Calgary, AB T2P 0R3

**Solicitor: Nancy Golding, Q.C.**

Telephone: (403) 232-9485

Facsimile: (403) 266-1395

Counsel for the Appellants

**DENTONS LLP**

2900 Manulife Place, 10180-101 Street  
Edmonton, AB T5J 3V5

**Solicitor: Doris Bonora, Anna**

**Loparco**

Telephone: (780) 423-7188

Facsimile: (780) 423-7276

Counsel for the Respondents

**Roland Twinn, Catherine Twinn,**

**Walter Felix Twin, Bertha**

**L'Hirondelle and Carla Midbo, as**

**Trustees for the 1985 Trust**

**HUTCHISON LAW**

130 Broadway Boulevard  
Sherwood Park, AB T8H 2A3

**Solicitor: Janet Hutchison**

Telephone- (780) 417-7871

Facsimile: (780) 417-7872

Counsel for the Respondent

**The Office of the Public Guardian and  
Trustee**

**Karen A. Platten, Q.C.**

12220 Stony Plain Road  
Edmonton, AB T4N 3Y4

Telephone : (780) 482-9278

Facsimile : (780) 482-9100

Counsel for the Respondent

**Catherine Twinn**



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### Summary of Facts Relating to the 1985 Trust

1. In 1966, Chief Walter Patrick Twinn ( "Chief Walter Twinn") became the Chief of the Sawridge Band No. 454, now known as Sawridge First Nation (the "Sawridge First Nation" or the "Nation"), and remained the Chief until his death on October 30, 1997.

Affidavit of Paul Bujold dated September 12, 2011, para. 6, Extracts of Key Evidence of the Appellants, page A0010.

2. In the early 1970's, the Sawridge First Nation began investing some of its oil and gas royalties in land, hotels and other business assets. At the time, it was unclear whether the Nation had statutory ownership powers, and accordingly assets acquired by the Nation were registered in the names of individuals who would hold the property in trust. By 1982, Chief Walter Twinn, George Twin, Walter Felix Twin, Samuel Gilbert Twin and David Fennell held a number of assets in trust for the Sawridge First Nation.

Affidavit of Paul Bujold dated September 12, 2011, para. 8, Extracts of Key Evidence of the Appellants, page A0011.

3. In 1982, the Sawridge First Nation decided to establish a formal trust in respect of the property then held in trust by individuals. The establishment of the formal trust would enable the Nation to provide long term benefits to the members and their descendents. On April 15, 1982, a declaration of trust establishing the Sawridge Band Trust (the "1982 Trust") was executed. All property held by Chief Walter Twinn and the other individuals was transferred into the 1982 Trust.

Affidavit of Paul Bujold dated September 12, 2011, paras. 9 - 12, Extracts of Key Evidence of the Appellants, pages A0011 - A0012.

4. On April 17, 1982, the *Constitution Act, 1982*, which included the *Canadian Charter of Rights and Freedoms* (hereinafter referred to as the "*Charter*") came into force. Section

15 of the *Charter* did not have effect, however, until April 17, 1985, to enable provincial and federal legislation to be brought into compliance.

5. After the Charter came into force, the federal government began the process of amending the *Indian Act*, R.S.C. 1970, c. I-6 (the "1970 *Indian Act*"). Following the federal election in 1984, the government introduced *Bill C-31* to address concerns that certain provisions of the 1970 *Indian Act* relating to membership were discriminatory.
6. It was expected that *Bill C-31* would result in an increase in the number of individuals included on the membership list of the Sawridge First Nation. This led the Nation to settle a new trust, the 1985 Trust, within which assets would be preserved for Nation members as defined by the legislation prior to *Bill C-31*.

Affidavit of Paul Bujold dated September 12, 2011,  
para. 15, Extracts of Key Evidence of the Appellants,  
page A0013.

7. On April 15, 1985 the Sawridge Band Intervivos Settlement was created (the "1985 Trust").

Affidavit of Paul Bujold dated September 12, 2011,  
paras. 1 and 16, Extracts of Key Evidence of the  
Appellants, pages A0009 and A0013.

8. The 1985 Trust provides that the "Beneficiaries" are:

"Beneficiaries at any particular time shall mean all persons who at that time qualify as members of the Sawridge Indian Band No. 19 pursuant to the provisions of the Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after the date of the execution of this Deed all persons who at such particular time would qualify for membership of the Sawridge Indian Band No. 19 pursuant to the said provisions as such provisions existed on the 15th day of April 1982 and, for greater certainty, no persons who would not qualify as members of the Sawridge Indian Band No. 19 pursuant to the said provisions, as such provisions existed on the 15th day of April, 1982, shall be regarded as "Beneficiaries" for the purpose of this Settlement whether or not such persons become or are at any time considered to be members of the Sawridge Indian Band No. 19 for all or any other purposes by virtue of amendments to the Indian Act R.S.C. 1970, Chapter I-6 that may come into force at any time after the date of the execution of this Deed or by virtue of any other legislation enacted by the Parliament of Canada or by any province or by virtue of any regulation, Order in Council, treaty or executive act



of the Government of Canada or any province or by any other means whatsoever; provided, for greater certainty, that any person who shall become enfranchised, become a member of another Indian band or in any manner voluntarily cease to be a member of the Sawridge Indian Band No. 19 under the Indian Act R.S.C. 1970, Chapter I-6, as amended from time to time, or any consolidation thereof or successor legislation thereto shall thereupon cease to be a Beneficiary for all purposes of this Settlement.”

Affidavit of Paul Bujold dated September 12, 2011, para. 17, Extracts of Key Evidence of the Appellants, page A0013.

9. The 1985 Trust effectively “froze” the definition of beneficiaries according to the legislation as it existed prior to *Bill C-31*.

Affidavit of Paul Bujold dated September 12, 2011, para. 18, Extracts of Key Evidence of the Appellants, page A0013.

10. By way of a resolution dated April 15, 1985, the trustees of the 1982 Trust resolved to transfer all of the assets of the 1982 Trust to the 1985 Trust. This transfer was carried out with the approval of the members of the Sawridge First Nation and under the guidance of lawyers and accountants.

Affidavit of Paul Bujold dated September 12, 2011, paras. 19 – 24, Extracts of Key Evidence of the Appellants, pages A0014 - A0015.

11. Taking into account the assets and liabilities of the 1985 Trust, the approximate value of the net assets of the 1985 Trust as at December 31, 2010 is \$70,263,960.

Affidavit of Paul Bujold dated September 12, 2011, para. 27, Extracts of Key Evidence of the Appellants, page A0015.

12. On August 15, 1986, the Sawridge Band Trust was settled (the “1986 Trust”). The beneficiaries of the 1986 Trust included all members of the Sawridge First Nation in the post-*Bill C-31* era.

Affidavit of Paul Bujold dated September 12, 2011, para. 29, Extracts of Key Evidence of the Appellants, page A0015.

13. The Sawridge First Nation transferred cash and other assets into the 1986 Trust to further the purposes of the trust. After April 15, 1985 no further funds or assets were put into the 1985 Trust. Effectively, the assets in existence as at April 15, 1985 were preserved for those who qualified as Sawridge members based on the definition of membership that existed at that time. The 1986 Trust was established so that assets coming into existence subsequent to 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 dated September 12, 2011, paras. 30 – 31, Extracts of Key Evidence of the Appellants, page A0016.

14. *Bill C-31* gave Indian bands the option of taking over control of their membership list by establishing their own membership codes, subject to the approval of the Minister of Indian Affairs. The Sawridge First Nation established such a code, and took over control of its membership effective July 8, 1985. It continues to exercise this control to this day.

Affidavit of Elizabeth Poitras dated December 7, 2011, paras. 3, 5 and 15, Extracts of Key Evidence of the Appellants, pages A0119 - A0120.

*Indian Act*, R.S.C. 1985, c. I-5, s. 10. (Tab 3)

15. As at September 30, 2011, the Sawridge First Nation had 41 members, all of whom were older than 18 years of age. These members have 31 dependant children younger than 18 years of age (the "Minor Dependants"). Twenty-three of the Minor Dependants qualify as beneficiaries of the 1985 Trust (hereinafter referred to as the "1985 Minor Beneficiaries"), and there are no other beneficiaries of the 1985 Trust younger than 18 years of age. The other eight Minor Dependants do not qualify as beneficiaries of the 1985 Trust.

Affidavit of Paul Bujold dated September 30, 2011, paras. 3 and 4, Extracts of Key Evidence of the Appellants, page A0116.



16. The Trustees have determined that maintaining the definition of "Beneficiaries" contained in the 1985 Trust is potentially discriminatory. The definition of "Beneficiaries" in the 1985 Trust would allow non-members of the First Nation to be beneficiaries of the 1985 Trust and would exclude certain members of the First Nation (such as those individuals acquiring membership as a result of *Bill C-31*) from being beneficiaries.

Affidavit of Paul Bujold dated September 12, 2011,  
para. 32, Extracts of Key Evidence of the Appellants,  
page A0016.

17. The Trustees believe that it is fair, equitable and in keeping with the history and purpose of the Trusts that the definition of "Beneficiaries" contained in the 1985 Trust be amended such that a beneficiary is defined as a member of the Nation, including those individuals acquiring membership as a result of *Bill C-31*. However, they recognize that there may be other alternatives in addressing this issue, and accordingly have sought the advice and direction of the Court.

Affidavit of Paul Bujold dated September 12, 2011,  
para. 33, Extracts of Key Evidence of the Appellants,  
page A0016.

18. The Trustees have been administering the 1985 Trust and the 1986 Trust (the "Trusts") for many years. In December of 2008, the Trustees retained the Four Worlds Centre for Development Learning (hereinafter referred to as "Four Worlds") to conduct a consultation process with the beneficiaries of the Trusts. Four Worlds prepared a report identifying the types of programs and services that the Trusts should offer to the beneficiaries and the types of payments the Trustees should consider making from the Trusts. The programs identified include health, dental and long-term disability insurance, compassionate care support, seniors support, child and youth development and educational support.

Affidavit of Paul Bujold dated September 12, 2011,  
para. 34, Extracts of Key Evidence of the Appellants,  
pages A0016 - A0017.

19. These programs will be offered not only to the beneficiaries of the Trusts, but to the Minor Dependants as well, through their parents, regardless of their status as a beneficiary under the Trusts.

Affidavit of Paul Bujold dated September 12, 2011, para. 34, Extracts of Key Evidence of the Appellants, pages A0016 - A0017.

20. For example, the same programs, services and other benefits that will be offered to the 1985 Minor Beneficiaries will also be offered to the eight Minor Dependants who do not qualify as beneficiaries of the 1985 Trust. This is because the programs, services and other benefits are offered equally between the 1985 Trust and the 1986 Trust, and the eight Minor Dependants that do not qualify as beneficiaries under the 1985 Trust will nonetheless have these benefits offered to them because they are dependants of beneficiaries of the 1986 Trust.

Affidavit of Paul Bujold dated September 30, 2011, paras. 5 and 6, Extracts of Key Evidence of the Appellants, pages A0116 - A0117.

21. Minors whose parents are beneficiaries of the Trust may receive substantial support whether the minor is a member or not.

Affidavit of Paul Bujold dated September 30, 2011, paras. 5 and 6, Extracts of Key Evidence of the Appellants, pages A0116 - A0117.

22. Having undertaken the consultation process, the Trustees have a desire to confer more direct benefits on the beneficiaries of the Trusts. The Trustees require clarification of, and if necessary, amendment to the 1985 Trust prior to conferring these benefits.

Affidavit of Paul Bujold dated September 12, 2011, para. 35, Extracts of Key Evidence of the Appellants, page A0017.

23. In seeking the advice and direction of the Court, the Trustees have made great efforts to provide notice to anyone who may have any interest. The Trustees have placed advertisements in newspapers in Western Canada to try to ascertain potential



beneficiaries. The Trustees then notified, *inter alia*, all registered members of the Nation, all known beneficiaries of the 1985 Trust, all parents of minors who are beneficiaries, all individuals who have applied for membership in the Sawridge First Nation, all individuals responding to newspaper advertisements placed by the Trustees and any other individual who the Trustees had reason to believe would be potential beneficiaries of the 1985 Trust. The Public Trustee and the Minister of Aboriginal Affairs and Northern Development were also provided notice.

Affidavit of Paul Bujold dated August 30, 2011, paras. 7  
– 11, Extracts of Key Evidence of the Appellants, pages  
A0002 - A0003.

Clerk's stamp:



COURT FILE NUMBER

1103 14112

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 AMENDEDIN 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 Sawridge Trust")

APPLICANTS

ROLAND TWINN,  
CATHERINE TWINN,  
WALTER FELIX TWIN,  
BERTHA L'HIRONDELLE, and  
CLARA MIDBO, as Trustees for the 1985  
Sawridge Trust

DOCUMENT

**AFFIDAVIT OF PAUL BUJOLD on advice  
and direction in the 1985 trust**ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENTReynolds, Mirth, Richards & Farmer LLP  
3200 Manulife Place  
10180 - 101 Street  
Edmonton, AB T5J 3W8Attention: Doris C.E. Bonora  
Telephone: (780) 425-9510  
Fax: (780) 429-3044  
File No: 108511-001-DCEB**AFFIDAVIT OF PAUL BUJOLD****Sworn on September 12, 2011**

I, Paul Bujold, of Edmonton, Alberta swear and say that:

1. I am the Chief Executive Officer of the Sawridge Trusts, which trusts consist of the Sawridge Band Intervivos Settlement created in 1985 (hereinafter referred to as the "1985

Trust”) and the Sawridge Band Trust created in 1986 (hereinafter referred to as the “1986 Trust”), and as such have personal knowledge of the matters hereinafter deposed to unless stated to be based upon information and belief, in which case I verily believe the same to be true.

2. I make this affidavit in support of an application for the opinion, advice and direction of the Court respecting the administration and management of the property held under the 1985 Trust.

### **Issues for this Application**

3. At present, there are five trustees of the 1985 Trust: Bertha L’Hirondelle, Clara Midbo, Catherine Twinn, Roland C. Twinn and Walter Felix Twin (hereinafter referred to as the “Trustees”).
4. The Trustees would like to make distributions for the benefit of the beneficiaries of the 1985 Trust. However, concerns have been raised by the Trustees:
  - a. Regarding the definition of “Beneficiaries” contained in the 1985 Trust.
  - b. Regarding the transfer of assets into the 1985 Trust.
5. Accordingly, the Trustees seek the opinion, advice and direction of the Court in regard to these matters.

### **Background**

6. In 1966, Chief Walter Patrick Twinn (hereinafter referred to as “Chief Walter Twinn”) became the Chief of the Sawridge Band No. 454, now known as Sawridge First Nation (hereinafter referred to as the “Sawridge First Nation” or the “Nation”), and remained the Chief until his death on October 30, 1997.

7. I am advised by Ronald Ewoniak, CA, retired engagement partner on behalf of Deloitte & Touche LLP to the Sawridge Trusts, Companies and First Nation, and do verily believe, that Chief Walter Twinn believed that the lives of the members of the Sawridge First Nation could be improved by creating businesses that gave rise to employment opportunities. Chief Walter Twinn believed that investing a portion of the oil and gas royalties received by the Nation would stimulate economic development and create an avenue for self-sufficiency, self-assurance, confidence and financial independence for the members of the Nation.
8. I am advised by Ronald Ewoniak, CA, and do verily believe, that in the early 1970s the Sawridge First Nation began investing some of its oil and gas royalties in land, hotels and other business assets. At the time, it was unclear whether the Nation had statutory ownership powers, and accordingly assets acquired by the Nation were registered to the names of individuals who would hold the property in trust. By 1982, Chief Walter Twinn, George Twin, Walter Felix Twin, Samuel Gilbert Twin and David Fennell held a number of assets in trust for the Sawridge First Nation.

#### **Creation of the 1982 Trust**

9. I am advised by Ronald Ewoniak, CA, and do verily believe, that in 1982 the Sawridge First Nation decided to establish a formal trust in respect of the property then held in trust by individuals on behalf of the present and future members of the Nation. The establishment of the formal trust would enable the Nation to provide long-term benefits to the members and their descendants. On April 15, 1982, a declaration of trust establishing the Sawridge Band Trust (hereinafter referred to as the "1982 Trust") was executed. Attached as **Exhibit "A"** to my Affidavit is a copy of the 1982 Trust.
10. In June, 1982, at a meeting of the trustees and the settlor of the 1982 Trust, it was resolved that the necessary documentation be prepared to transfer all property held by Chief Walter Twinn, George Vital Twin and Walter Felix Twin, in trust for the present

and future members of the Nation, to the 1982 Trust. Attached as **Exhibit "B"** to my Affidavit is a copy of the resolution passed at the said meeting dated June, 1982.

11. The 1982 Trust was varied by a Court Order entered on June 17, 2003, whereby paragraph 5 of the 1982 Trust was amended to provide for staggered terms for the trustees. Attached as **Exhibit "C"** to my Affidavit is a copy of the Court Order entered on June 17, 2003 varying the 1982 Trust.
12. On December 19, 1983, a number of properties and shares in various companies which had been held by Chief Walter Twinn, Walter Felix Twin, Samuel Gilbert Twin and David Fennell in trust for the present and future members of the Nation were transferred into the 1982 Trust. Attached as **Exhibit "D"** to my Affidavit is an agreement dated December 19, 1983, transferring certain assets into the 1982 Trust. Attached as **Exhibit "E"** to my Affidavit is a transfer agreement dated December 19, 1983 transferring certain assets from the 1982 Trust to Sawridge Holdings Ltd.

**Changes in Legislation – The *Charter of Rights and Freedoms* and *Bill C-31***

13. On April 17, 1982, the *Constitution Act, 1982*, which included the *Canadian Charter of Rights and Freedoms* (hereinafter referred to as the "*Charter*"), came into force. Section 15 of the *Charter* did not have effect, however, until April 17, 1985, to enable provincial and federal legislation to be brought into compliance with it.
14. After the *Charter* came into force, the federal government began the process of amending the *Indian Act*, R.S.C. 1970, c. I-6 (hereinafter referred to as the "*1970 Indian Act*"). Following the federal election in 1984, the government introduced *Bill C-31*, a copy of which is attached as **Exhibit "F"** to my Affidavit. *Bill C-31* was introduced to address concerns that certain provisions of the 1970 *Indian Act* relating to membership were discriminatory.



15. It was expected that *Bill C-31* would result in an increase in the number of individuals included on the membership list of the Sawridge First Nation. This led the Nation to settle a new trust, the 1985 Trust, within which assets would be preserved for the Band members as defined by the legislation prior to *Bill C-31*.

#### Creation of the 1985 Trust

16. Attached as **Exhibit "G"** to my Affidavit is a copy of the 1985 Trust dated April 15, 1985.
17. The 1985 Trust provides that the "Beneficiaries" are:
- "Beneficiaries at any particular time shall mean all persons who at that time qualify as members of the Sawridge Indian Band No. 19 pursuant to the provisions of the Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after the date of the execution of this Deed all persons who at such particular time would qualify for membership of the Sawridge Indian Band No. 19 pursuant to the said provisions as such provisions existed on the 15<sup>th</sup> day of April 1982 and, for greater certainty, no persons who would not qualify as members of the Sawridge Indian Band No. 19 pursuant to the said provisions, as such provisions existed on the 15<sup>th</sup> day of April, 1982, shall be regarded as "Beneficiaries" for the purpose of this Settlement whether or not such persons become or are at any time considered to be members of the Sawridge Indian Band No. 19 for all or any other purposes by virtue of amendments to the Indian Act R.S.C. 1970, Chapter I-6 that may come into force at any time after the date of the execution of this Deed or by virtue of any other legislation enacted by the Parliament of Canada or by any province or by virtue of any regulation, Order in Council, treaty or executive act of the Government of Canada or any province or by any other means whatsoever; provided, for greater certainty, that any person who shall become enfranchised, become a member of another Indian band or in any manner voluntarily cease to be a member of the Sawridge Indian Band No. 19 under the Indian Act R.S.C. 1970, Chapter I-6, as amended from time to time, or any consolidation thereof or successor legislation thereto shall thereupon cease to be a Beneficiary for all purposes of this Settlement."
18. The 1985 Trust effectively "froze" the definition of beneficiaries according to the legislation as it existed prior to *Bill C-31*.

19. Attached as **Exhibit "H"** to my Affidavit is a copy of a Resolution of Trustees dated April 15, 1985, whereby the trustees of the 1982 Trust resolved to transfer all of the assets of the 1982 Trust to the 1985 Trust.
20. On April 15, 1985, the Sawridge First Nation approved and ratified the transfer of the assets from the 1982 Trust to the 1985 Trust. Attached as **Exhibit "I"** to my Affidavit is a Sawridge Band Resolution dated April 15, 1985 to this effect.
21. On April 16, 1985 the trustees of the 1982 Trust and the trustees of the 1985 Trust declared:
  - a. that the trustees of the 1985 Trust would hold and continue to hold legal title to the assets described in Schedule "A" of that Declaration; and
  - b. that the trustees of the 1985 Trust had assigned and released to them any and all interest in the Promissory Notes attached as Schedule "B" of that Declaration.Attached as **Exhibit "J"** to this my Affidavit is the Declaration of Trust made April 16, 1985.
22. Based upon my review of the exhibits attached to this my affidavit and upon the knowledge I have acquired as Chief Executive Officer of the Sawridge Trusts, I believe that all of the property from the 1982 Trust was transferred to the 1985 Trust. Further, there was additional property transferred into the 1985 Trust by the Sawridge First Nation or individuals holding property in trust for the Nation and its members.
23. The transfers were carried out by the trustees of the 1982 Trust under the guidance of accountants and lawyers. The Trustees have been unable to locate all of the necessary documentation in relation to the transfer of the assets from the 1982 Trust to the 1985 Trust or in relation to the transfer of assets from individuals or the Nation to the 1985 Trust.

24. It is clear that the transfers were done but the documentation is not currently available. The Trustees have been operating on the assumption that they were properly guided by their advisors and the asset transfer to the 1985 Trust was done properly.
25. The Trustees seek the Court's direction to declare that the asset transfer was proper and that the assets in the 1985 Trust are held in trust for the benefit of the beneficiaries of the 1985 Trust.
26. The 1985 Trust is the sole shareholder of Sawridge Holdings Ltd. I am advised by Ralph Peterson, Chairman of the Board of Directors of the Sawridge Group of Companies, and do verily believe that an approximate value of the 1985 Trust investment in Sawridge Holdings Ltd. as at December 31, 2010 is \$68,506,815. This represents an approximate value of the net assets of Sawridge Holdings Ltd., assuming all assets could be disposed of at their recorded net book value and all liabilities are settled at the recorded values as at that date, with no consideration for the income tax effect of any disposal transactions.
27. Taking into account the other assets and liabilities of the 1985 Trust, the approximate value of the net assets of the 1985 Trust as at December 31, 2010 is \$70,263,960.
28. To unravel the assets of the 1985 Trust after 26 years would create enormous costs and would likely destroy the trust. Assets would have to be sold to pay the costs and to pay the taxes associated with a reversal of the transfer of assets.

#### **Creation of the 1986 Trust**

29. Attached to my affidavit as **Exhibit "K"** is a copy of the 1986 Trust dated August 15, 1986. The beneficiaries of the 1986 Trust included all members of the Sawridge First Nation in the post-*Bill C-31* era.

30. The Sawridge First Nation transferred cash and other assets into the 1986 Trust to further the purposes of the trust. After April 15, 1985 no further funds or assets were put into the 1985 Trust.
31. Effectively, the assets in existence as at April 15, 1985 were preserved for those who qualified as Sawridge members based on the definition of membership that existed at that time. The 1986 Trust was established so that assets coming into existence subsequent to 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.

#### **Identification of Beneficiaries Under the 1985 Trust and the 1986 Trust**

32. The Trustees have determined that maintaining the definition of "Beneficiaries" contained in the 1985 Trust is potentially discriminatory. The definition of "Beneficiaries" in the 1985 Trust would allow non-members of the Nation to be beneficiaries of the 1985 Trust and would exclude certain members of the Nation (such as those individuals acquiring membership as a result of *Bill C-31*) from being beneficiaries.
33. The Trustees believe that it is fair, equitable and in keeping with the history and purpose of the Sawridge Trusts that the definition of "Beneficiaries" contained in the 1985 Trust be amended such that a beneficiary is defined as a member of the Nation, which is consistent with the definition of "Beneficiaries" in the 1986 Trust.

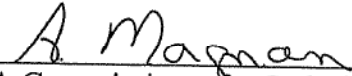
#### **Current Status**

34. The Trustees have been administering the Sawridge Trusts for many years. In December of 2008, the Trustees retained the Four Worlds Centre for Development Learning (hereinafter referred to as "Four Worlds") to conduct a consultation process with the beneficiaries of the Sawridge Trusts. Four Worlds prepared a report identifying the types of programs and services that the Sawridge Trusts should offer to the beneficiaries and

the types of payments the Trustees should consider making from the trusts. Attached hereto as **Exhibit "L"** is a summary chart of recommendations taken from the said report.

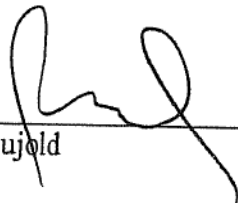
35. Having undertaken the consultation process, the Trustees have a desire to confer more direct benefits on the beneficiaries of the Sawridge Trusts. The Trustees require clarification and amendment of the 1985 Trust such that the definition of "Beneficiaries" in the 1985 Trust is varied to make it consistent with the definition of "Beneficiaries" in the 1986 Trust. In this way the members of the Nation are the beneficiaries of both the 1985 Trust and the 1986 Trust and the assets that once belonged to the Nation can be distributed through the trusts to the members of the Nation.


SWORN before me at Edmonton  
in the Province of Alberta,  
on the 12 day of September, 2011.

  
A Commissioner for Oaths in and for  
the Province of Alberta

Catherine A. Magnan  
My Commission Expires  
January 29, 2012

809051\_2; September 12, 2011

  
Paul Bujold

	Clerk's stamp:
COURT FILE NUMBER	1103-14112
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	EDMONTON
	<p>IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c. T-8, AS AMENDED</p> <p>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 Sawridge Trust")</p>
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust
DOCUMENT	<b>Order</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<p>Attention: Doris C.E. Bonora Reynolds, Mirth, Richards &amp; Farmer LLP 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8</p> <p>Telephone: (780) 425-9510 Fax: (780) 429-3044 File No: 108511-001-DCEB</p>

Date on which Order Pronounced: August 31, 2011

Name of Justice who made this Order: D. R. G. Thomas

UPON the application of the Trustees of the 1985 Sawridge Trust (the "Applicants" or the "Trustees"); AND UPON hearing read the Affidavit of Paul Bujold, IT IS HEREBY ORDERED AND DECLARED as follows:



**Application**

1. An application shall be brought by the Trustees of the 1985 Sawridge Trust for the opinion, advice and direction of the Court respecting the administration and management of the property held under the 1985 Sawridge Trust (hereinafter referred to as the "Advice and Direction Application"). The Advice and Direction Application shall be brought:
  - a. To seek direction with respect to the definition of "Beneficiaries" contained in the 1985 Sawridge Trust, and if necessary to vary the 1985 Sawridge Trust to clarify the definition of "Beneficiaries".
  - b. To seek direction with respect to the transfer of assets to the 1985 Sawridge Trust.

**Notice**

2. The Trustees shall send notice of the Advice and Direction Application to the following persons, in the manner set forth in this Order:
  - a. The Sawridge First Nation;
  - b. All of the registered members of the Sawridge First Nation;
  - c. All persons known to be beneficiaries of the 1985 Sawridge Trust and all former members of the Sawridge First Nation who are known to be excluded by the definition of "Beneficiaries" in the Sawridge Trust created on August 15, 1986, but who would now qualify to apply to be members of the Sawridge First Nation;
  - d. All persons known to have been beneficiaries of the Sawridge Band Trust created on April 15, 1982 (hereinafter referred to as the "1982 Sawridge Trust"), including any person who would have qualified as a beneficiary subsequent to April 15, 1985;
  - e. All of the individuals who have applied for membership in the Sawridge First Nation;
  - f. All of the individuals who have responded to the newspaper advertisements placed by the Applicants claiming to be a beneficiary of the 1985 Sawridge Trust;
  - g. Any other individuals who the Applicants may have reason to believe are potential beneficiaries of the 1985 Sawridge Trust;
  - h. The Office of the Public Trustee of Alberta (hereinafter referred to as the "Public Trustee") in respect of any minor beneficiaries or potential minor beneficiaries; and
  - i. The Minister of Aboriginal Affairs and Northern Development Canada (hereinafter referred to as the "Minister") in respect, *inter alia*, of all those



persons who are Status Indians and who are deemed to be affiliated with the Sawridge First Nation by the Minister.

(those persons mentioned in Paragraph 2 (a) – (i) shall collectively be referred to as the “Beneficiaries and Potential Beneficiaries”)

3. Notice of the Advice and Direction Application on any person shall not be used by that person to show any connection or entitlement to rights under the 1982 Sawridge Trust or the 1985 Sawridge Trust, nor to entitle a person to being held to be a beneficiary of the 1982 Sawridge Trust or the 1985 Sawridge Trust, nor to determine or help to determine that a person should be admitted as a member of the Sawridge First Nation. Notice of the Advice and Direction Application is deemed only to be notice that a person may have a right to be a beneficiary of the 1982 Sawridge Trust or the 1985 Sawridge Trust and that the person must determine his or her own entitlement and pursue such entitlement.

#### **Dates and Timelines for Advice and Direction Application**

4. The Trustees shall, within 10 business days of the day this Order is made, provide notice of the Advice and Direction Application to the Beneficiaries and Potential Beneficiaries in the following manner:
  - a. Make this Order available by posting this Order on the website located at [www.sawridgetrusts.ca](http://www.sawridgetrusts.ca) (hereinafter referred to as the “Website”);
  - b. Send a letter by registered mail to the Beneficiaries and Potential Beneficiaries for which the Applicants have a mailing address and by email to the Beneficiaries and Potential Beneficiaries for which the Applicants have an email address, advising them of the Advice and Direction Application and advising them of this Order and of the ability to access this Order on the Website (hereinafter referred to as the “Notice Letter”). The Notice Letter shall also provide information on how to access court documents on the Website;
  - c. Take out an advertisement in the local newspapers published in the Town of Slave Lake and the Town of High Prairie, setting out the same information that is contained in the Notice Letter; and
  - d. Make a copy of the Notice Letter available by posting it on the Website.
5. The Trustees shall send the Notice Letter by registered mail and email no later than September 7, 2011.
6. Any person who is interested in participating in the Advice and Direction Application shall file any affidavit upon which they intend to rely no later than September 30, 2011.
7. Any questioning on affidavits filed with respect to the Advice and Direction Application shall be completed no later than October 21, 2011.
8. The legal argument of the Applicants shall be filed no later than November 11, 2011.

9. The legal argument of any other person shall be filed no later than December 2, 2011.
10. Any replies by the Applicant shall be filed no later than December 16, 2011.
11. The Advice and Direction Application shall be heard January 12, 2012 in Special Chambers.

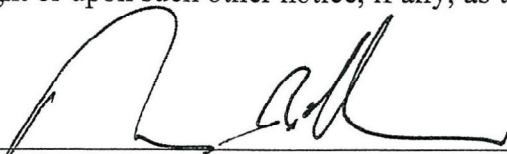
**Further Notice and Service Provisions**

12. Except as otherwise provided for in this Order, the Beneficiaries and Potential Beneficiaries need not be served with any document filed with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument.
13. The Applicants shall post any document that they file with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument, on the Website within 5 business days after the day on which the document is filed.
14. The Beneficiaries and Potential Beneficiaries shall serve the Applicants with any document that they file with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument, which service shall be completed by the relevant filing deadline, if any, contained in this Order.
15. The Applicants shall post all of the documents the Applicants are served with in this matter on the Website within 5 business days after the day on which they were served.
16. The Applicants shall make all written communications to the Beneficiaries and Potential Beneficiaries publicly available by posting all such communications on the Website within 5 business days after the day on which the communication is sent.
17. The Beneficiaries and Potential Beneficiaries are entitled to download any documents posted on the Website by the Applicants pursuant to the terms of this Order.
18. Notwithstanding any other provision in this Order, the following persons shall be served with all documents filed with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument:
  - a. Legal counsel for the Applicants;
  - b. Legal counsel for any individual Trustee;
  - c. Legal counsel for any Beneficiaries and Potential Beneficiaries;
  - d. The Sawridge First Nation;
  - e. The Public Trustee; and

f. The Minister.

**Variation or Amendment of this Order**

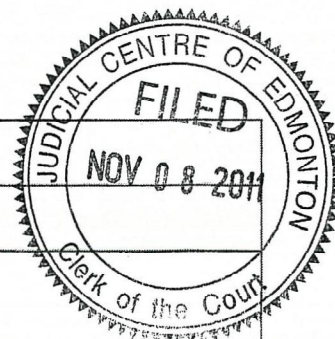
19. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order on not less than 7 days' notice to those persons identified in paragraph 17 of this Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

  
\_\_\_\_\_  
Justice of the Court of Queen's Bench in Alberta  
Thomas J

809772; August 31, 2011



	Clerk's stamp:
COURT FILE NUMBER	1103 14112
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	EDMONTON
	<p>IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c. T-8, AS AMENDED</p> <p>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 Sawridge Trust")</p>
APPLICANTS	<p>ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust (the "Trustees")</p>
DOCUMENT	<b>ORDER</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<p>Attention: Marco S. Poretti Reynolds, Mirth, Richards &amp; Farmer LLP 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8</p> <p>Telephone: (780) 425-3325 Fax: (780) 429-3044 File No: 108511-001-MSP</p>



**Date on which Order Pronounced:** November 8, 2011 at Edmonton, AB

**Name of Justice who made this Order:** D.R.G. Thomas

UPON the application of the Trustees of the 1985 Sawridge Trust; AND UPON being advised that the timelines in the Order pronounced on August 31, 2011 in the within matter require adjustments; AND UPON noting the consent of counsel for the Trustees, counsel for the Office

of the Public Trustee, counsel for the Minister of Aboriginal Affairs and Northern Development Canada and counsel for the Sawridge First Nation; IT IS HEREBY ORDERED AND DECLARED as follows:

1. The dates and timelines for the Advice and Direction Application contained in this Court's Order pronounced on August 31, 2011 in the within action (the "Procedural Order") are revised as follows:
  - a) Any person who is interested in participating in the Advice and Direction Application shall file any affidavit upon which they intend to rely no later than December 7, 2011.
  - b) Any questioning on affidavits filed with respect to the Advice and Direction Application shall be completed no later than January 6, 2012.
  - c) The legal argument of the Applicants shall be filed no later than February 10, 2012.
  - d) The legal argument of any other person shall be filed no later than February 17, 2012.
  - e) Any replies by the Applicant shall be filed no later than February 24, 2012.
  - f) The Advice and Direction Application shall be heard March 6, 2012 in Special Chambers, for a full day.
2. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order or the Procedural Order on not less than 7 days' notice to those persons identified in paragraph 18 of the Procedural Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
3. This Order may be consented to in counterpart and by way of facsimile signature.
4. Service of notice of this application in accordance with paragraph 19 of the Procedural Order is hereby deemed good and sufficient.

DRT ✓, as amended, PRT ✓

"D.R. Thomas"

Justice of the Court of Queen's Bench in Alberta

CONSENTED TO BY:

OFFICE OF THE PUBLIC TRUSTEE  
Per:

Janet Hutchinson  
Solicitors for the Office of the  
Public Trustee of Alberta

DEPARTMENT OF JUSTICE CANADA  
Per:



E. James Kindrake  
Solicitors for Minister of Aboriginal Affairs  
and Northern Development Canada



- 2 -

of the Public Trustee, counsel for the Minister of Aboriginal Affairs and Northern Development Canada and counsel for the Sawridge First Nation; IT IS HEREBY ORDERED AND DECLARED as follows:

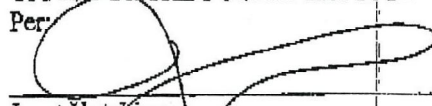
1. The dates and timelines for the Advice and Direction Application contained in this Court's Order pronounced on August 31, 2011 in the within action (the "Procedural Order") are revised as follows:
  - a) Any person who is interested in participating in the Advice and Direction Application shall file any affidavit upon which they intend to rely no later than December 7, 2011.
  - b) Any questioning on affidavits filed with respect to the Advice and Direction Application shall be completed no later than January 6, 2012.
  - c) The legal argument of the Applicants shall be filed no later than February 10, 2012.
  - d) The legal argument of any other person shall be filed no later than February 17, 2012.
  - e) Any replies by the Applicant shall be filed no later than February 24, 2012.
  - f) The Advice and Direction Application shall be heard March 6, 2012 in Special Chambers, for a full day.
2. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order or the Procedural Order on not less than 7 days' notice to those persons identified in paragraph 18 of the Procedural Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
3. This Order may be consented to in counterpart and by way of facsimile signature.
4. Service of notice of this application in accordance with paragraph 19 of the Procedural Order is hereby deemed good and sufficient.

Justice of the Court of Queen's Bench in Alberta

CONSENTED TO BY:

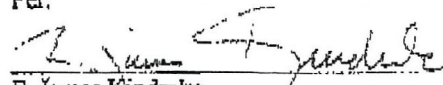
OFFICE OF THE PUBLIC TRUSTEE

Per:

  
Janet Hutchinson  
Solicitors for the Office of the  
Public Trustee of Alberta

DEPARTMENT OF JUSTICE CANADA

Per:

  
E. James Kindrake  
Solicitors for Minister of Aboriginal Affairs  
and Northern Development Canada

SAWRIDGE FIRST NATION

Per:




---

Michael R. McKinney

Counsel for Sawridge First Nation

REYNOLDS MIRTH RICHARDS &  
FARMER LLP

Per:




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Marco S. Poretti

Solicitors for the Trustees

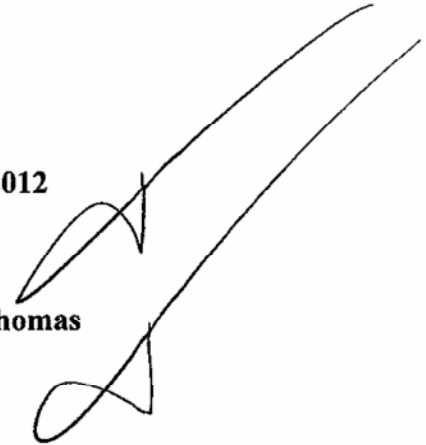


	Clerk's stamp:
COURT FILE NUMBER	1103 14112
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	EDMONTON
	 IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c. T-8, AS AMENDED  IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN, OF THE SAWRIDGE INDIAN BAND, NO. 19 now known as SAWRIDGE FIRST NATION ON APRIL 15, 1985 (the "1985 Sawridge Trust")
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust (the "Trustees")
DOCUMENT	<b>ORDER</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Attention: Marco S. Poretti Reynolds, Mirth, Richards & Farmer LLP 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8  Telephone: (780) 425-3325 Fax: (780) 429-3044 File No: 108511-001-MSP

**Date on which Order Pronounced: February 16, 2012**

**Location of hearing or trial: Edmonton, Alberta**

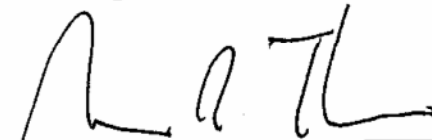
**Name of Justice who made this Order: D. R. G. Thomas**



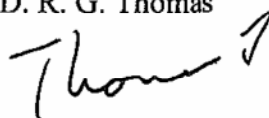
UPON the application of the Trustees of the 1985 Sawridge Trust; AND UPON being advised that the timelines in the Orders pronounced on August 31, 2011 and November 8, 2011 in the within matter require adjustments; AND UPON being advised of the discussions between counsel for the Trustees, counsel for the Office of the Public Trustee, counsel for the Minister of Aboriginal Affairs and Northern Development Canada, counsel for the Sawridge First Nation and counsel for Aline Elizabeth Huzar and June Martha Kolosky; IT IS HEREBY ORDERED AND DECLARED as follows:


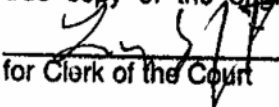
1. The dates and timelines for the Advice and Direction Application contained in this Court's Order pronounced on August 31, 2011 in the within action (the "Procedural Order") are revised as follows:
  - a) Any questioning on affidavits filed with respect to the Advice and Direction Application shall be completed no later than April 30, 2012.
  - b) The legal argument of the Applicants shall be filed no later than May 29, 2012.
  - c) The legal argument of any other person shall be filed no later than June 14, 2012.
  - d) Any replies by the Applicant shall be filed no later than June 22, 2012.
  - e) The Advice and Direction Application shall be heard June 26, 2012 in Special Chambers, for a full day.
2. The applications of the Office of the Public Trustee regarding its role, costs and the relevance of the membership issue shall be heard March 6, 2012 in Special Chambers, for a full day. Materials shall be filed with the Special Applications Clerk and served on each of the parties consenting to this Order, as follows:
  - a. The Office of the Public Trustee shall file and serve its application, affidavits, written briefs and authorities by no later than February 17, 2012.
  - b. Any other person shall file and serve their written briefs and authorities by no later than February 29, 2012.
3. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order or the Procedural Order on not less than 7 days' notice to those persons identified in paragraph 18 of the Procedural Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

4. Service of notice of this application in accordance with paragraph 18 of the Procedural Order, as amended, is hereby deemed good and sufficient.

A handwritten signature in black ink, appearing to read 'D. R. G. Thomas', written above a horizontal line.

Mr. Justice D. R. G. Thomas

A handwritten signature in black ink, appearing to read 'Thomas', written below the printed name.

	Clerk's stamp:
COURT FILE NUMBER	1103 14112
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	EDMONTON
	<p>IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c. T-8, AS AMENDED</p> <p>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 Sawridge Trust")</p>
<p>APPLICANTS</p> <p>I hereby certify this to be a true copy of the original.</p> <p> for Clerk of the Court</p>	<p>ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust (the "Trustees")</p>
DOCUMENT	<b>ORDER</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<p>Attention: Marco S. Poretti Reynolds, Mirth, Richards &amp; Farmer LLP 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8</p> <p>Telephone: (780) 425-9510 Fax: (780) 429-3044 File No: 108511-001-MSP</p>

Date on which Order Pronounced: February 24, 2012

Location of hearing or trial: Edmonton, Alberta

Name of Justice who made this Order: D. R. L. Thomas

UPON the application of the Trustees of the 1985 Sawridge Trust; AND UPON being advised that the timelines in the Orders pronounced on August 31, 2011, November 8, 2011 and February 16, 2012 in the within matter require adjustments; AND UPON noting the consent of counsel for the Trustees, counsel for the Office of the Public Trustee, counsel for the Minister of Aboriginal Affairs and Northern Development Canada, counsel for the Sawridge First Nation and counsel for Aline Elizabeth Huzar and June Martha Kolosky; IT IS HEREBY ORDERED AND DECLARED as follows:

1. The dates and timelines for the Advice and Direction Application contained in this Court's Order pronounced on August 31, 2011 in the within action (the "Procedural Order"), as revised by this Court's Orders pronounced on November 8, 2011 and February 16, 2012, are revised as follows:
  - a. The Advice and Direction Application shall be heard on June 26 and June 27, 2012, on the Commercial Duty list.
2. The dates and timelines for the applications of the Office of the Public Trustee regarding its role, costs and the relevance of the membership issue contained in this Court's Order pronounced on February 16, 2012 are revised such that the applications shall be heard April 5, 2012 on the Commercial Duty list, for a full day, and materials shall be filed with the Trial Co-ordinator's Office and served on each of the parties consenting to this Order, as follows:
  - a. The Office of the Public Trustee shall file and serve its application, affidavits, written briefs and authorities by no later than February 22, 2012.
  - b. Any other person shall file and serve their written briefs and authorities by no later than March 8, 2012.
  - c. The Office of the Public Trustee shall file and serve any replies by no later than March 16, 2012.
3. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order or the Procedural Order on not less than 7 days' notice to those persons identified in paragraph 18 of the Procedural Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
4. Service of notice of this application in accordance with paragraph 18 of the Procedural Order, as amended, is hereby deemed good and sufficient.

5. This Order may be consented to in counterpart and by way of facsimile signature.



Mr. Justice D. R. G. Thomas

Thomas J

CONSENTED TO BY:

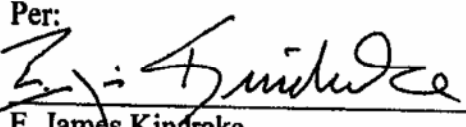
OFFICE OF THE PUBLIC TRUSTEE

Per:

\_\_\_\_\_  
Janet Hutchinson  
Solicitors for the Office of the  
Public Trustee of Alberta

DEPARTMENT OF JUSTICE CANADA

Per:

  
\_\_\_\_\_  
E. James Kindrake  
Solicitors for the Minister of Aboriginal  
Affairs and Northern Development Canada

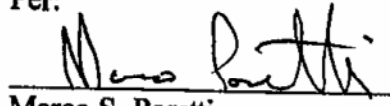
SAWRIDGE FIRST NATION

Per:

\_\_\_\_\_  
Michael R. McKinney  
Counsel for Sawridge First Nation


REYNOLDS MIRTH RICHARDS &  
FARMER LLP

Per:

  
\_\_\_\_\_  
Marco S. Poretti  
Solicitors for the Trustees

DAVIS LLP

Per:

  
\_\_\_\_\_  
Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar and  
June Martha Kolosky

5. This Order may be consented to in counterpart and by way of facsimile signature.

---

Mr. Justice D. R. G. Thomas

CONSENTED TO BY:

OFFICE OF THE PUBLIC TRUSTEE

Per: 

Janet Hutchinson  
Solicitors for the Office of the  
Public Trustee of Alberta

DEPARTMENT OF JUSTICE CANADA

Per: \_\_\_\_\_

E. James Kindrake  
Solicitors for the Minister of Aboriginal  
Affairs and Northern Development Canada

SAWRIDGE FIRST NATION

Per: \_\_\_\_\_

Michael R. McKinney  
Counsel for Sawridge First Nation

REYNOLDS MIRTH RICHARDS &  
FARMER LLP

Per: \_\_\_\_\_

Marco S. Poretti  
Solicitors for the Trustees

DAVIS LLP

Per: \_\_\_\_\_

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar and  
June Martha Kolosky



5. This Order may be consented to in counterpart and by way of facsimile signature.

---

Mr. Justice D. R. G. Thomas

CONSENTED TO BY:

OFFICE OF THE PUBLIC TRUSTEE  
Per:

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Janet Hutchinson  
Solicitors for the Office of the  
Public Trustee of Alberta

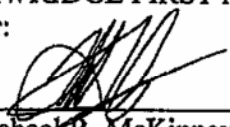
DEPARTMENT OF JUSTICE CANADA  
Per:

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E. James Kindrake  
Solicitors for the Minister of Aboriginal  
Affairs and Northern Development Canada

SAWRIDGE FIRST NATION  
Per:

---



Michael R. McKinney  
Counsel for Sawridge First Nation

REYNOLDS MIRTH RICHARDS &  
FARMER LLP  
Per:

---

Marco S. Poretti  
Solicitors for the Trustees

DAVIS LLP  
Per:

---

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar and  
June Martha Kolosky

5. This Order may be consented to in counterpart and by way of facsimile signature.

---

Mr. Justice D. R. G. Thomas

CONSENTED TO BY:

OFFICE OF THE PUBLIC TRUSTEE

Per:

---

Janet Hutchinson  
Solicitors for the Office of the  
Public Trustee of Alberta

DEPARTMENT OF JUSTICE CANADA

Per:

---

E. James Kindrake  
Solicitors for the Minister of Aboriginal  
Affairs and Northern Development Canada

SAWRIDGE FIRST NATION

Per:

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Michael R. McKinney  
Counsel for Sawridge First Nation

REYNOLDS MIRTH RICHARDS &  
FARMER LLP

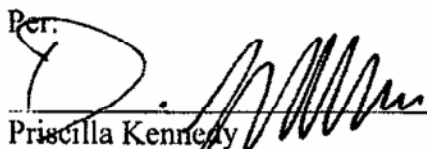
Per:

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Marco S. Poretti  
Solicitors for the Trustees

DAVIS LLP

Per:

*for*   
Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar and  
June Martha Kolosky

	Clerk's stamp:
COURT FILE NUMBER	1103 14112
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  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 Sawridge Trust")
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust (the "Trustees")
DOCUMENT	<b>ORDER</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Attention: Marco S. Poretti Reynolds, Mirth, Richards & Farmer LLP 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8  Telephone: (780) 425-9510 Fax: (780) 429-3044 File No: 108511-001-MSP

Date on which Order Pronounced:

June 4, 2012

Location of hearing or trial:

EDMONTON, ALBERTA

Name of Justice who made this Order:

D. A. G. THOMAS

UPON the application of the Trustees of the 1985 Sawridge Trust; AND UPON being advised that certain of the timelines in the Orders pronounced on August 31, 2011, November 8, 2011, February 16, 2012 and February 24, 2012 in the within matter require adjustments; AND UPON noting the consent of counsel for the Trustees, counsel for the Office of the Public Trustee, counsel for the Minister of Aboriginal Affairs and Northern Development Canada, counsel for the Sawridge First Nation and counsel for Aline Elizabeth Huzar, June Martha Kolosky and Maurice Stoney; IT IS HEREBY ORDERED AND DECLARED as follows:

1. The dates and timelines for the Advice and Direction Application contained in this Court's Order pronounced on August 31, 2011 in the within action (the "Procedural Order"), as revised by this Court's Orders pronounced on November 8, 2011, February 16, 2012 and February 24, 2012, are revised as follows:
  - a. Any questioning on affidavits filed with respect to the Advice and Direction Application shall be completed no later than June 30, 2012.
  - b. The legal argument of the Applicants shall be filed no later than July 19, 2012.
  - c. The legal argument of any other person shall be filed no later than August 7, 2012.
  - d. Any replies by the Applicant shall be filed no later than August 17, 2012.
  - e. The Advice and Direction Application shall be heard on August 23 and August 24, 2012, on the Commercial Duty list.
2. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order or the Procedural Order on not less than 7 days' notice to those persons identified in paragraph 18 of the Procedural Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
3. Service of notice of this application in accordance with paragraph 18 of the Procedural Order, as amended, is hereby deemed good and sufficient.

4. This Order may be consented to in counterpart and by way of facsimile signature.



Mr. Justice D. R. G. Thomas



CONSENTED TO BY:

CHAMBERLAIN HUTCHISON

Per:

Janet Hutchison  
Solicitors for the Office of the  
Public Trustee of Alberta

MYLES J. KIRVAN - DEPUTY ATTORNEY  
GENERAL OF CANADA

Per:

E. James Kindrake  
Solicitors for the Minister of Indian Affairs and  
Northern Development

PARLEE McLAWS LLP

Per:

Edward H. Molstad, Q.C.  
Counsel for Sawridge First Nation

REYNOLDS MIRTH RICHARDS &  
FARMER LLP

Per:

Marco S. Poretti  
Solicitors for the Trustees

DAVIS LLP

Per:

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar, June  
Martha Kolosky and Maurice Stoney



4. This Order may be consented to in counterpart and by way of facsimile signature.

---

Mr. Justice D. R. G. Thomas

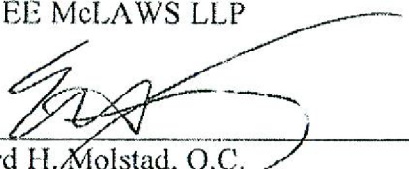
CONSENTED TO BY:

CHAMBERLAIN HUTCHISON  
Per:

---

Janet Hutchison  
Solicitors for the Office of the  
Public Trustee of Alberta

PARLEE McLAWS LLP  
Per:



---

Edward H. Molstad, Q.C.  
Counsel for Sawridge First Nation

DAVIS LLP  
Per:

---

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar, June  
Martha Kolosky and Maurice Stoney

MYLES J. KIRVAN - DEPUTY ATTORNEY  
GENERAL OF CANADA  
Per:

---

E. James Kindrake  
Solicitors for the Minister of Indian Affairs and  
Northern Development

REYNOLDS MIRTH RICHARDS &  
FARMER LLP  
Per:

---

Marco S. Poretti  
Solicitors for the Trustees

4. This Order may be consented to in counterpart and by way of facsimile signature.

---

Mr. Justice D. R. G. Thomas

CONSENTED TO BY:

CHAMBERLAIN HUTCHISON  
Per:

---

Janet Hutchison  
Solicitors for the Office of the  
Public Trustee of Alberta

SAWRIDGE FIRST NATION  
Per:

---

Michael R. McKinney  
Counsel for Sawridge First Nation

DAVIS LLP  
Per:

---

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar, June  
Martha Kolosky and Maurice Stoney

MYLES J. KIRVAN - DEPUTY ATTORNEY  
GENERAL OF CANADA  
Per:

---

E. James Kindrake  
Solicitors for the Minister of Indian Affairs and  
Northern Development

REYNOLDS MIRTH RICHARDS &  
FARMER LLP  
Per:

---

Marco S. Poretti  
Solicitors for the Trustees

4. This Order may be consented to in counterpart and by way of facsimile signature.

---

Mr. Justice D. R. G. Thomas

CONSENTED TO BY:

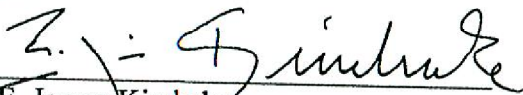
CHAMBERLAIN HUTCHISON  
Per:

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Janet Hutchison  
Solicitors for the Office of the  
Public Trustee of Alberta

MYLES J. KIRVAN - DEPUTY ATTORNEY  
GENERAL OF CANADA

Per:

  
E. James Kindraker  
Solicitors for the Minister of Indian Affairs and  
Northern Development

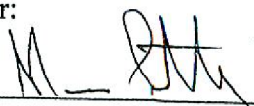
PARLEE McLAWS LLP  
Per:

---

Edward H. Molstad, Q.C.  
Counsel for Sawridge First Nation

REYNOLDS MIRTH RICHARDS &  
FARMER LLP

Per:

  
Marco S. Poretti  
Solicitors for the Trustees

DAVIS LLP  
Per:

---

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar, June  
Martha Kolosky and Maurice Stoney



	Clerk's stamp:
COURT FILE NUMBER	1103 14112
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	EDMONTON
	<p>IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c. T-8, AS AMENDED</p> <p>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 Sawridge Trust")</p>
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust (the "Trustees")
DOCUMENT	<b>ORDER</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<p>Attention: Marco S. Poretti Reynolds, Mirth, Richards &amp; Farmer LLP 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8</p> <p>Telephone: (780) 425-9510 Fax: (780) 429-3044 File No: 108511-001-MSP</p>



Date on which Order Pronounced: August 16, 2012

Location of hearing or trial: EDMONTON, ALBERTA

Name of Justice who made this Order: D. A. C. THOMAS

UPON the application of the Trustees of the 1985 Sawridge Trust; AND UPON being advised that an appeal will be filed in respect of the Reasons for Judgment of the Honourable Mr. Justice

D.R.G. Thomas dated June 12, 2012; AND UPON noting the consent of counsel for the Trustees, counsel for the Office of the Public Trustee, counsel for the Minister of Aboriginal Affairs and Northern Development Canada, counsel for the Sawridge First Nation and counsel for Aline Elizabeth Huzar, June Martha Kolosky and Maurice Stoney; IT IS HEREBY ORDERED AND DECLARED as follows:

1. The dates and timelines for the Advice and Direction Application relating to questioning on affidavits, the filing of legal argument and reply, and the hearing of the Advice and Direction Application, contained in this Court's Order pronounced on August 31, 2011 in the within action (the "Procedural Order"), as revised by this Court's Orders pronounced on November 8, 2011, February 16, 2012, February 24, 2012 and June 4, 2012, are no longer binding, and the August 23 and 24, 2012 dates for the Advice and Direction Application are specifically vacated and released.
2. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order or the Procedural Order on not less than 7 days' notice to those persons identified in paragraph 18 of the Procedural Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
3. Service of notice of this application in accordance with paragraph 18 of the Procedural Order, as amended, is hereby deemed good and sufficient.
4. This Order may be consented to in counterpart and by way of facsimile signature.




Mr. Justice D. R. G. Thomas



CONSENTED TO BY:

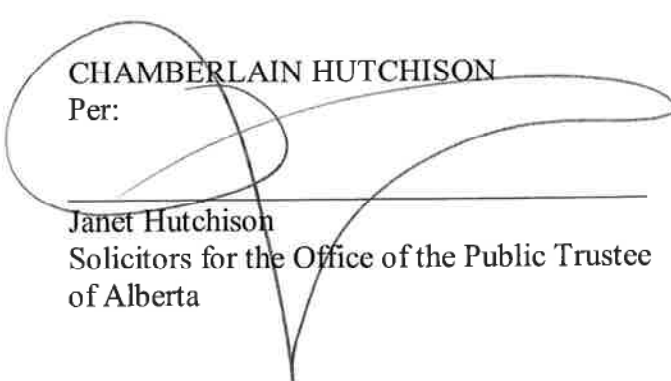
REYNOLDS MIRTH RICHARDS &  
FARMER LLP

Per:

  
Marco S. Poretti  
Solicitors for the Trustees

CHAMBERLAIN HUTCHISON

Per:

  
Janet Hutchison  
Solicitors for the Office of the Public Trustee  
of Alberta

- 3 -

PARLEE McLAWS LLP

Per:



Edward H. Molstad, Q.C.  
Counsel for Sawridge First Nation

MYLES J. KIRVAN - DEPUTY ATTORNEY  
GENERAL OF CANADA

Per:

E. James Kindrake  
Solicitors for the Minister of Indian Affairs and  
Northern Development

DAVIS LLP

Per:

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar, June  
Martha Kolosky and Maurice Stoney

- 3 -

PARLEE McLAWS LLP


Per:

---

Edward H. Molstad, Q.C.  
Counsel for Sawridge First Nation

MYLES J. KIRVAN - DEPUTY ATTORNEY  
GENERAL OF CANADA

Per:

---

for E. James Kindrake  
Solicitors for the Minister of Indian Affairs and  
Northern Development

DAVIS LLP

Per:

---

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar, June  
Martha Kolosky and Maurice Stoney

- 3 -

PARLEE McLAWS LLP

Per:

---

Edward H. Molstad, Q.C.  
Counsel for Sawridge First Nation

MYLES J. KIRVAN - DEPUTY ATTORNEY  
GENERAL OF CANADA


Per:

---

E. James Kindrake  
Solicitors for the Minister of Indian Affairs and  
Northern Development

DAVIS LLP

Per:



---

Priscilla Kennedy  
Solicitors for Aline Elizabeth Huzar, June  
Martha Kolosky and Maurice Stoney

COURT FILE NUMBER	1103 14112
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, AND CLARA MIDO, AS TRUSTEES FOR THE 1985 SAWRIDGE TRUST
RESPONDENT	IN THE MATTER OF THE TRUSTEE ACT R.S.A. 2000, CT-8 AS AMENDED  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
DOCUMENT	AFFIDAVIT OF PATRICK TWINN
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BORDEN LADNER GERVAIS LLP Centennial Place, East Tower 1900, 520 – 3 Avenue SW Calgary, Alberta T2P 0R3  Attention: Nancy Golding Q.C./Sandi Shannon Tel: (403) 232-9485/9782 Fax: (403) 266-1395 Email: ngolding@blg.com sshannon@blg.com File no. 443395/01

**AFFIDAVIT OF  
PATRICK TWINN  
Sworn (or Affirmed) on July 26, 2016**

I, Patrick Twinn, of the Sawridge Indian Reserve 150 G and the City of Edmonton, in the Province of Alberta, SWEAR/AFFIRM AND SAY THAT:

1. I am one of the Applicant Beneficiaries herein, and as such have knowledge of the matters hereinafter disposed to.
2. This matter involving the Sawridge Band Intervivos Settlement (the "1985 Trust") has been brought forward to the Court by its five trustees: Bertha Twin- L'Hirondelle, Clara Twin-Midbo, Catherine Twinn, Roland C. Twinn, and Walter Felix Twin (hereinafter referred to as the "Sawridge Trustees"). I understand that Justin Twin and Margaret Ward, have replaced Walter Felix Twin who resigned and Clara Midbo, deceased as Sawridge Trustees.
3. I understand that the Sawridge Trustees are seeking the opinion, advice and direction of the Court respecting the administration and management of the property held under the 1985 Trust (the "Advice and Direction Application") in respect to:
  - a. the definition of the term "Beneficiaries" contained in the 1985 Trust and if necessary to vary the 1985 Sawridge Trust to clarify the definition of "Beneficiaries"; and
  - b. the transfer of assets into the 1985 Trust.
4. I make this Affidavit in support of a motion:
  - (i) to be added as a party in the Advice and Direction Application and to have my counsel participate in the Court proceedings relating to the definition of "Beneficiaries" contained in the 1985 Trust and the transfer of assets into the 1985 Trust brought forward by the Sawridge Trustees in the Advice and Direction Application;
  - (ii) for an order compelling the Sawridge Trustees to provide an accounting and pass their accounts for the 1985 and 1986 Trusts; and
  - (iii) for advance costs and full indemnification of costs from the 1985 Trust and the 1986 Trust.

**The Trusts**

5. In 1985, my father, Walter Patrick Twinn established the 1985 Trust to hold certain properties in trust for members of the Sawridge First Nation. I understand that the Beneficiaries of the 1985 Trust were defined as all persons who qualified as a member of the Sawridge First Nation pursuant to the provisions of the *Indian Act* as existed on April 15, 1982. The Sawridge Trusts Website provides as follows:

The beneficiaries of The Sawridge Band Inter-Vivos Settlement at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band No. 454 pursuant to The Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after April 15, 1985, all persons at such particular time

as would qualify for such membership pursuant to the said provisions as they existed on April 15, 1985.

6. In 1986, my Father established the Sawridge Trust, August 15, 1986 (the "1986 Trust") (collectively with the 1985 Trust, the "Sawridge Trusts"). The Sawridge Trusts Website provides as follows:

The beneficiaries of The Sawridge Trust at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band under the laws of Canada in force at that time, including the membership rules and customary laws of the Sawridge Indian Band as they 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

Attached hereto and marked as Exhibit "A" is a true copy of the Sawridge Trust website "Beneficiaries" tab viewed on July 25, 2016.

### **Background**

7. I was born into the Sawridge First Nation on October 22, 1985. My Father, was the Canadian Chief of the Sawridge First Nation from 1966 to his death, October 30, 1997 ("Chief Walter Twinn").
8. My mother, Catherine Twinn, is a Trustee of the Sawridge Trusts and is a current member of the Sawridge First Nation.
9. I am a recognized member of the Sawridge First Nation (the "Sawridge Band") and have been absolutely entitled as a Beneficiary, without exception, since my birth.
10. I am cohabitating with and on July 30, 2016 will formalize my marriage to my partner and the mother of my daughter, Melissa Megley. Melissa Megley, under the current rules, qualifies as a Beneficiary of the 1985 Trust in her own right. I have been informed by Melissa Megley that she does not consent to the Sawridge Trustees' proposed variation. I do not believe that Melissa will ever be admitted by the Sawridge Band into membership under the current membership process and Membership Rules and therefore will never be a Beneficiary through band membership. Melissa will be excluded as a Beneficiary of the 1985 Trust if the definition of Beneficiary is varied to be band membership as proposed by the Sawridge Trustees in the Advice and Direction Application.
11. My newborn daughter, Aspen Saya Twinn, is the youngest Beneficiary of the 1985 Trust. She is not a Sawridge Band member nor do I believe she will ever be one under the current Sawridge Band leadership. Accordingly, my daughter will be excluded as a Beneficiary of the 1985 Trust if the definition of Beneficiary is varied to be band membership as proposed by the Sawridge Trustees in the Advice and Direction Application. On her behalf, Melissa and I do not consent to this proposed variation.
12. In addition to Melissa Megley and our newborn daughter, my brothers, Sam, Isaac and Cameron have informed me they do not consent, on their own behalf and on behalf of their present or future spouses and issue, to this proposed variation of the definition of Beneficiary in the 1985 Trust.



13. As a descendant and listed member of the Sawridge First Nation, I am a Beneficiary of the 1985 Trust under the current definition of "Beneficiary" and I am directly affected by the Advice and Direction Application being brought forward involving the 1985 Trust.
14. I will continue to be a Beneficiary under the 1985 Trust if the Sawridge Trustees Advice and Direction Application succeeds as I am currently a Sawridge Band member subject to a decision of the Chief and Council, who under the Membership Rules, purport to be able to revoke band membership. The Membership Rules give the Chief and Council what appears to be an absolute discretion over accepting, rejecting and revoking any persons as Sawridge Band members.
15. I also have concerns with the administration of the Trusts. In addition to these concerns outlined below, I believe that there is a conflict of interest between the duties of Sawridge Trustees who were or are elected Band officials and the powers that they held or hold to determine membership in the Sawridge First Nation. I am aware that other First Nation Trusts prohibit elected Band officials, employees and agents to act as Trustees to avoid conflicts of interest and ensure an equality amongst the Trustees. I believe a Trustee must represent all Beneficiaries, past, present and future, not just their political constituency. I believe this does not happen when the Chief is a Trustee and a majority of Trustees are or were elected Band officials, as is the case here.
16. I do not believe that appropriate steps have been taken to properly ascertain all of persons who are Beneficiaries of the 1985 Trust. I and other 1985 Beneficiaries I know of have not been consulted by the Trustees to grandfather us and our issue. Nor have we been asked to consent to substituting the existing Beneficiary definition with band membership. Nor have we been asked to consent to the variation they seek.
17. Further, I believe that vested and potential Beneficiaries are being excluded from Sawridge Band membership as a result of personal animosities and that others are being accepted based on their personal relationships with some of the Sawridge Trustees.
18. I do verily believe that the Trustees' proposed amendment to the definition of "Beneficiary" under the 1985 Trust will result in the exclusion of many of the current 1985 Trust Beneficiaries and many potential Beneficiaries and their issue.

#### **Request for Accounting**

19. On April 12, 2016, as a Beneficiary under the 1985 Trust and the 1986 Trust, I sent a request to Paul Bujold requesting an accounting of the 1985 and 1986 Trusts as soon as was practicable.
20. To the best of my knowledge, since September 9, 2009, Mr. Bujold has been the Administrator of the Trusts. This is a salaried position that is contracted for by the Trusts at the discretion of a majority of Trustees.
21. On April 29, 2016, Mr. Bujold responded to my request as follows:  
  
Thank you for your request for an accounting. Unfortunately, we are unable to address your request at this time.
22. On May 3, 2016, I responded to Mr. Bujold requesting further information as to why the Trusts did not feel that they had to account to their beneficiaries. Both the 1985 Trust and the 1986 Trust explicitly require the Trustees to "keep accounts in acceptable manner of all receipts, disbursements, investments and other transactions in the administration of the Trusts." I also

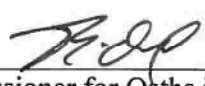
explained to Mr. Bujold that my understanding is that a trustee must be ready to provide an accounting to a Beneficiary at any time.

23. On May 4, 2016, Mr. Bujold confirmed that the Trustees have kept accounts as required by the Sawridge Trusts and informed me that the Trustees did have plans to account to the Beneficiaries. However, according to Mr. Bujold, an accounting would only be provided after the determination of the Advice and Direction Application and other related Actions. Attached hereto and marked as Exhibit "B" is the email correspondence referred to in paragraphs 20-24 of this my Affidavit.
24. Mr. Bujold further informed me that it was the Trustees' position that "[r]eporting to the beneficiaries is not a simple process and requires some preparation which the Trusts do not have time for at this time because of the many legal actions, apart from the Trusts' own application for Advice and Direction for the 1985 Trust, that need to be managed and responded to." Mr. Bujold also informed me that "[c]urrent Trustee direction is not to do an accounting until the beneficiaries for both Trusts have been ascertained and the transfer of assets for the 1985 Trust is complete, that is impossible at the moment since the matter is currently before the courts."
25. My father now deceased, created the 1985 Trust. My mother is a current Trustee and is a member of the Sawridge First Nation. I am and always have been a recognized member of the Sawridge First Nation. Accordingly, I have always been considered to be a Beneficiary under both the 1985 Trust and the 1986 Trust and I am therefore entitled to an accounting, which to date the Sawridge Trustees have refused to provide.

#### Need for Advance Costs and Indemnity

26. I am seeking advance costs and full indemnification for costs of this action from the 1985 Trust. Absent this award, there is no other realistic option for me to bring this issue to Court. Without this financial assistance, there is simply no way that I can proceed.
27. Further, I represent interests, including those of my partner and my infant daughter, that are currently not represented in this matter. The interests I represent are of broader public import and I do not believe that they have been previously determined.
28. I am a member of the Sawridge First Nation, born into it by my father, Chief Walter Twinn and my mother, Catherine Twinn. As I was a Sawridge First Nation member at the time the 1985 Trust was created and I remain one today, I should be included as a Party in the Advice and Direction Application presented before the Court regarding the definition of "Beneficiaries" and the transfer of assets with the 1985 Trust, particularly as my consent would be required in a trust variation application.
29. As a Beneficiary under both Sawridge Trusts, I am entitled to an accounting from the Trustees without delay.

SWORN (OR AFFIRMED) BEFORE ME at )  
St. Albert,, Alberta, this 26<sup>th</sup> day of July, 2016. )

  
Commissioner for Oaths in and for the )  
Province of Alberta )

**BALRAJ DEOL**  
Barrister & Solicitor )

CAL01: 1951745: v6

  
PATRICK TWINN )

PATRICK TWINN )

# Exhibit A

## Beneficiaries

Beneficiaries must presently meet the following requirements set out in the Trust Deeds of the two Trusts:

### The Sawridge Band Inter-Vivos Settlement, 15 April 1985

"The beneficiaries of The Sawridge Band Inter-Vivos Settlement at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band No. 454 pursuant to The Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after April 15, 1985, all persons at such particular time as would qualify for such membership pursuant to the said provisions as they existed on April 15, 1985."

### The Sawridge Trust, 15 August 1986

"The beneficiaries of The Sawridge Trust at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band under the laws of Canada in force at that time, including the membership rules and customary laws of The Sawridge Indian Band as they 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."

This is exhibit "A" referred to  
in the Affidavit of

PATRICK TWINN  
Sworn before me this 26<sup>th</sup>

Day of July A.D. 20 16

[Signature]  
A Commissioner for Oaths in and for  
the Province of Alberta

**BALRAJ DEOL**  
Barrister & Solicitor

# Exhibit B

This is exhibit "B" referred to  
in the Affidavit of  
PATRICK TWINN  
Sworn before me this 26<sup>th</sup>  
Day of July A.D. 20 16  
B. Deol  
A Commissioner for Oaths in and for  
the Province of Alberta

**BALRAJ DEOL**  
Barrister & Solicitor

**From:** Paul Bujold <paull@sawridgetrusts.ca>  
**Date:** May 4, 2016 at 4:21:17 PM MDT  
**To:** Patrick Twinn <patricktwinn77@hotmail.com>  
**Subject:** RE: Accounting of Trusts

Patrick,

The Trusts do have plans to account to the beneficiaries of both Trusts after the determination of the beneficiary definition for the 1985 Trust, and the transfer of assets to the 1985 Trusts, currently before the courts, is complete.

Trustees have kept "accounts in acceptable manner of all receipts, disbursements, investments and other transactions in the administration of the Trusts" and these will be shared at the time of the accounting.

Reporting to the beneficiaries is not a simple process and requires some preparation which the Trusts do not have time for at this time because of the many legal actions, apart from the Trusts' own application for Advice and Direction for the 1985 Trust, that need to be managed and responded to.

Your characterisation that "the Trust Administrator and the Chair feel they do not have to account to a beneficiary" is inaccurate. The Trusts' Administrator and Chair can only act on the direction of the Trustees. Current Trustee direction is not to do an accounting until the beneficiaries for both Trusts have been ascertained and the transfer of assets for the 1985 Trust is complete, that is impossible at the moment since the matter is currently before the courts.

Your request will be raised with the Trustees at their June meeting.

**Paul Bujold**  
**Trusts Administrator**  
Sawridge Trusts  
Office (780) 988-7723

**Notice of Confidentiality:**

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dissemination, distribution, or copying of this communication by anyone other than the intended recipient is strictly prohibited. If you have received this communication in error, please destroy the original document.

**From:** Patrick Twinn [<mailto:patricktwinn77@hotmail.com>]  
**Sent:** Tuesday, May 03, 2016 1:46 PM  
**To:** Paul Bujold <[paul@sawridgetrusts.ca](mailto:paul@sawridgetrusts.ca)>  
**Cc:** Brian Heidecker <[brian@sawridgetrusts.ca](mailto:brian@sawridgetrusts.ca)>  
**Subject:** RE: Accounting of Trusts

Paul

While I appreciate you responding in a timely and professional manner, I am interested in knowing why the Trusts feel they do not have to account as the trustees must be ready to provide at any time to provide accounts to a beneficiary. Common Law suggests that accounts must be show the amount at inception, the amounts received and the amounts expended. In both the 85 and 86 Trusts, the Trustees are required to keep "keep accounts in acceptable manner of all receipts, disbursements, investments and other transactions in the administration of the Trusts."

With that said, there is no direction to account to beneficiaries but there also is no prohibition from doing so, therefore common law requirements to accounts should be apply.

I am curious to know why the Trust Administrator and the Chair feel they do not have to account to a beneficiary.

**W. Patrick Twinn**  
**(780) 718-9661**  
**P.O. Box 1460**  
**Slave Lake, Alberta T0G 2A0**

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---

**From:** [paul@sawridgetrusts.ca](mailto:paul@sawridgetrusts.ca)  
**To:** [patricktwinn77@hotmail.com](mailto:patricktwinn77@hotmail.com)  
**CC:** [brian@sawridgetrusts.ca](mailto:brian@sawridgetrusts.ca)  
**Subject:** RE: Accounting of Trusts  
**Date:** Fri, 29 Apr 2016 14:01:09 +0000

Patrick,  
 Thank you for your request for an accounting. Unfortunately, we are unable to address your request at this time.

**Paul Bujold**  
**Trusts Administrator**

Sawridge Trusts  
Office (780) 988-7723

**Notice of Confidentiality:**

This message, transmitted by electronic mail, is intended only for the use of the individual or entity to whom it is addressed and may contain information which is confidential and privileged. Confidentiality and privilege are not lost by this e-mail having been sent to the wrong person. Any dissemination, distribution, or copying of this communication by anyone other than the intended recipient is strictly prohibited. If you have received this communication in error, please destroy the original document.

**From:** Patrick Twinn [<mailto:patricktwinn77@hotmail.com>]

**Sent:** Tuesday, April 12, 2016 4:42 PM

**To:** Paul Bujold <[paul@sawridgetrusts.ca](mailto:paul@sawridgetrusts.ca)>

**Subject:** Accounting of Trusts

Paul,

I am a beneficiary of the 1985 and 1986 Trusts and I'm requesting an accounting of the Trusts as soon as practicable.

Patrick

W. Patrick Twinn  
Ph: (780) 718-9661  
Mailing Address: P.O. Box 1460  
Slave Lake, Alberta  
T0G 2A0

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COURT FILE NUMBER	1103 14112
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, AND CLARA MIDO, AS TRUSTEES FOR THE 1985 SAWRIDGE TRUST
RESPONDENT	IN THE MATTER OF THE TRUSTEE ACT R.S.A. 2000, CT-8 AS AMENDED  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")
DOCUMENT	AFFIDAVIT OF SHELBY TWINN
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BORDEN LADNER GERVAIS LLP Centennial Place, East Tower 1900, 520 – 3 Avenue SW Calgary, Alberta T2P 0R3  Attention: Nancy Golding Q.C./Sandi Shannon Tel: (403) 232-9485/9782 Fax: (403) 266-1395 Email: ngolding@blg.com sshannon@blg.com File no. 443395/01

**AFFIDAVIT OF  
SHELBY TWINN  
Sworn (or Affirmed) on July 26, 2016**

I, Shelby Twinn, of the City of Edmonton, in the Province of Alberta, SWEAR/AFFIRM AND SAY THAT:

1. I am one of the Applicant Beneficiaries herein, and as such have knowledge of the matters hereinafter disposed to.
2. This matter involving the 1985 Trust has been brought forward to the Court by its five trustees: Bertha Twin- L'Hirondelle, Clara Twin-Midbo, Catherine Twinn, Roland C. Twinn, and Walter Felix Twin (hereinafter referred to as the "Sawridge Trustees"). I understand that Justin Twin and Margaret Ward are now Sawridge Trustees and that they replaced Walter Felix Twin, who resigned, and Clara Midbo who is now deceased.
3. I understand that the Sawridge Trustees are seeking the opinion, advice and direction of the Court respecting the administration and management of the property held under the 1985 Trust (the "Advice and Direction Application") in respect to:
  - a. the definition of the term "Beneficiaries" contained in the 1985 Trust, and, if necessary, to vary the 1985 Trust to clarify the definition of "Beneficiaries"; and
  - b. the transfer of assets to the 1985 Trust.
4. I am a beneficiary under the current definition of the 1985 Trust. I understand that the Sawridge Trustees, with the exception of Catherine Twinn, are seeking to amend the definition of "Beneficiary" under the 1985 Trust on the basis that it is discriminatory. I understand that they seek to amend the definition of "Beneficiary" to band members only as determined by Chief and Council. Although I am currently a Beneficiary under the 1985 Trust, if the Sawridge Trustees application for Advice and Direction succeeds, I will no longer be a Beneficiary as I am not one of the 44 Sawridge Band members on the Sawridge Band List controlled by Chief and Council.
5. I make this Affidavit in support of a motion:
  - (i) to be added as a party in the Advice and Direction Application and to have my counsel participate in the Court proceedings relating to the definition of "Beneficiaries" contained in the 1985 Trust and the transfer of assets into the 1985 Trust brought forward by the Sawridge Trustees in the Advice and Direction Application;
  - (ii) for an order compelling the Sawridge Trustees to provide an accounting and pass their accounts for the 1985 Trust; and
  - (iii) for advance costs and full indemnification of costs from the 1985 Trust and 1986 Trust.

**The Trusts**

6. In 1985, my Paternal Grandfather, Walter Patrick Twinn established the 1985 Trust to hold certain properties in trust for members of the Sawridge First Nation the ("Sawridge Band"). I understand that the Beneficiaries of the 1985 Trust were defined as all persons who qualified as a member of the Sawridge First Nation pursuant to the provisions of the Indian Act as they existed on April 15, 1982. The Sawridge Trusts Website provides as follows:

The beneficiaries of The Sawridge Band Inter-Vivos Settlement at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band No. 454 pursuant to The Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after April 15, 1985, all persons at such particular time as would qualify for such membership pursuant to the said provisions as they existed on April 15, 1985.

7. In 1986, my paternal grandfather established the Sawridge Trust, August 15, 1986 (the "1986 Trust") (collectively with the 1985 Trust, the "Sawridge Trusts"). The Sawridge Trusts Website provides as follows:

The beneficiaries of The Sawridge Trust at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band under the laws of Canada in force at that time, including the membership rules and customary laws of the Sawridge Indian Band as they 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

8. Attached hereto and marked as Exhibit "A" is a true copy of the Sawridge Trusts website "Beneficiaries" tab viewed on July 25, 2016.

#### **Background**

9. I was born January 3, 1992, and was raised on the Sawridge First Nation Reserve for the first 5 years of my life. I am entitled to and am registered as an Indian. I am not on the Sawridge Band list, and do not receive any benefits from the Sawridge First Nation.
10. My biological father, Paul Twinn is recognized as a Status Indian with the Canadian Federal Government under the *Indian Act* and is a member of the Sawridge First Nation. My paternal grandfather, Walter Patrick Twinn, was the Canadian Chief of the Sawridge First Nation from 1966 to his date of death, October 30, 1997 ("Chief Walter Twinn").
11. My mother, Kristal Schreiber, was married to Paul Twinn and lived on the Sawridge Indian Reserve until I was 5 years old. She returned only once with my sister and me, in November 1997, for my paternal grandfather's funeral.
12. Around 1998, when I was 6 years old my mother moved us to Prince George, British Columbia and to the best of my knowledge it was around that time that she ceased all contact with the Twin(n) family and the Sawridge First Nation.
13. My biological father has made no effort to have any type of relationship with either myself or my sister. He has never supported us financially, nor did he provide any support to my mother. My mother re-married and although I consider her husband to be my father I was never formally adopted.
14. Despite being the daughter of Paul Twinn and the granddaughter of Chief Walter Twinn, and therefore a Beneficiary of the 1985 Trust under the current definition, I have never been contacted about my being a Beneficiary by any Trust Administrator. The first time that I learned that I was a Beneficiary under the 1985 Trust was in September 2013 through Catherine Twinn.

15. I moved to Alberta in 2013. At that time I contacted Arlene Twinn, my biological father's sister, and was asked to complete a membership application form. I have a number of educational goals and would benefit greatly from being a Beneficiary of the Sawridge Trusts. However, at this time I have a number of reservations about applying to be a member.
16. I am very close with my sister Kaitlin who is three years younger than me, and know her very well and love her deeply. Like myself, my sister is a Beneficiary of the 1985 Trust under its current definition. Kaitlin was included for "grandfathering" in the Trustees' Offer to the Court filed June 12, 2016. I was not. My sister has never been contacted by the Trusts.
17. I do verily believe that my paternal grandfather, who settled the Trusts, would have wanted my sister and me to be Beneficiaries, regardless of our Sawridge Band membership status. I strongly oppose the proposal to change the rules that define Beneficiary in the 1985 Trust to band members as controlled by the Chief and Council as that we would not be Beneficiaries.
18. I believe that the purpose of the 1985 Trust was to ensure that a larger and more inclusive family group beyond that of individual members picked by the Chief and Council. This would include women, who marry male Band members and their children. I believe it is essentially impossible to marry within the Sawridge Band as there are only 44 Sawridge Band members.

#### **Request for Accounting**

19. On March 2, 2016 I emailed Paul Bujold, Trusts Administrator the following request:  
  
I am a beneficiary of the 1985 Trust. I qualify under section 11 (1) (d) of the Indian Act, as it stood April 17, 1982. I write on behalf of myself and others who qualify under these Indian Act provisions. We are entitled to an accounting of the 1985 Trust assets. To start we will need copies of all legal accounts by March 8, 2016, received by the Trust, whether paid or not, arising in relation to the 1985 Trust. We want the full accounting on or before April 4, 2016.
20. On March 18, 2016 Paul Bujold replied saying:  
  
We cannot provide you with this information at the moment.  
  
Attached hereto and marked as Exhibit "B" is a true copy of my correspondence to Paul Bujold dated March 2, 2016, and Paul Bujold's correspondence to me dated March 18, 2016.
21. As a beneficiary of the 1985 Trust, I am entitled to an accounting which to date the Sawridge Trustees have refused to provide. I am concerned about the legal fees paid by the Trusts.

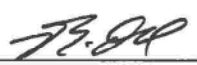
#### **Need for Advance Costs and Indemnity**

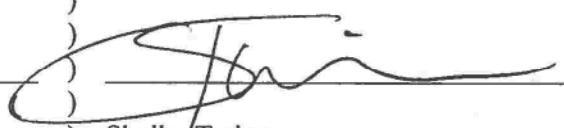
22. I am seeking advance costs and full indemnification for costs of this action from the 1985 Trust. Absent this award, there is no other realistic option for me to bring this issue to Court. Without this financial assistance, there is simply no way that I can proceed.
23. I do not believe that my sister and I are the only children of the Sawridge First Nation who would qualify as Beneficiaries of the 1985 Trust under the current definition and who would lose their entitlement under the Sawridge Trustees' proposed amendment. I believe that my interests are of

broader public import and to the best of my knowledge, the issues that I raise have not previously been decided.

24. As outlined above, under the current definition of "Beneficiary", my sister and I are Beneficiaries of the 1985 Trust. If the Sawridge Trustees are successful in their application, my sister and I will lose that entitlement. There are no other Parties to this Action at present that I am aware of, like myself and my sister. Accordingly, my opinion, advice and direction for the definition of "Beneficiaries" contained in the 1985 Trust and the transfer of assets into the 1985 Trust brought forward by the Sawridge Trustees in the Advice and Direction Application is critical to reaching a fair and just determination.

SWORN (OR AFFIRMED) BEFORE ME at )  
St. Albert, Alberta, this 26<sup>th</sup> day of July, 2016. )

  
\_\_\_\_\_  
Commissioner for Oaths in and for the  
Province of Alberta

  
\_\_\_\_\_  
) Shelby Twinn

**BALRAJ DEOL**  
Barrister & Solicitor

# Exhibit A



## Beneficiaries

Beneficiaries must presently meet the following requirements set out in the Trust Deeds of the two Trusts:

### The Sawridge Band Inter-Vivos Settlement, 15 April 1985

"The beneficiaries of The Sawridge Band Inter-Vivos Settlement at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band No. 454 pursuant to The Indian Act R.S.C. 1970, Chapter 1-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after April 15, 1985, all persons at such particular time as would qualify for such membership pursuant to the said provisions as they existed on April 15, 1985."

### The Sawridge Trust, 15 August 1986

"The beneficiaries of The Sawridge Trust at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band under the laws of Canada in force at that time, including the membership rules and customary laws of The Sawridge Indian Band as they 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."

This is exhibit "A" referred to  
in the Affidavit of  
SHELBY TWINN  
Sworn before me this 26<sup>th</sup>  
Day of July A.D. 2016  
[Signature]  
A Commissioner for Oaths in and for  
the Province of Alberta

**BALRAJ DEOL**  
Barrister & Solicitor

# Exhibit B

Begin forwarded message:

**From:** Paul Bujold <[paul@sawridgetrusts.ca](mailto:paul@sawridgetrusts.ca)>  
**Date:** March 18, 2016 at 7:58:40 AM MDT  
**To:** Shelby Twinn <[S.Twinn@LIVE.CA](mailto:S.Twinn@LIVE.CA)>  
**Subject:** RE: 1985 Trust Accounting

Shelby,  
 We cannot provide you with this information at the moment.  
 Thanks,

**Paul Bujold**  
**Trusts Administrator**  
 Sawridge Trusts  
 Office (780) 988-7723

**Notice of Confidentiality:**

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**From:** Shelby Twinn [<mailto:S.Twinn@LIVE.CA>]  
**Sent:** Wednesday, March 02, 2016 9:29 AM  
**To:** Paul Bujold <[paul@sawridgetrusts.ca](mailto:paul@sawridgetrusts.ca)>  
**Subject:** 1985 Trust Accounting

March 2, 2016

Good Morning Paul,

I am a beneficiary of the 1985 Trust. I qualify under section 11 (1) (d) of the Indian Act, as it stood April 17, 1982. I write on behalf of myself and others who qualify under these Indian Act provisions. We are entitled to an accounting of the 1985 Trust assets. To start we will need copies of all legal accounts by March 8, 2016, received by the Trust, whether paid or not, arising in relation to the 1985 Trust. We want the full accounting on or before April 4, 2016.

Sincerely,

Shelby Twinn

This is Exhibit "B" referred to  
 in the Affidavit of

SHELBY TWINN

Sworn before me this 26<sup>th</sup>

Day of July A.D. 20 16

B. Deol

A Commissioner for Oaths in and for  
 the Province of Alberta

**BALRAJ DEOL**  
**Barrister & Solicitor**

COURT FILE NUMBER	1103 14112
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, AND CLARA MIDBO, AS TRUSTEES FOR THE 1985 SAWRIDGE TRUST
RESPONDENT	IN THE MATTER OF THE TRUSTEE ACT R.S.A. 2000, CT-8 AS AMENDED  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 Sawridge Trust")
DOCUMENT	AFFIDAVIT OF DEBORAH SERAFINCHON
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BORDEN LADNER GERVAIS LLP Centennial Place, East Tower 1900, 520 – 3 Avenue SW Calgary, Alberta T2P 0R3 Attention: Nancy Golding Q.C/Sandi Shannon Tel: (403) 232-9485/9782 Fax: (403) 266-1395 Email: ngolding@blg.com/sshannon@blg.com File no. 443395/01

**AFFIDAVIT OF  
DEBORAH SERAFINCHON**

**Sworn (or Affirmed) on July 26, 2016**

I, Deborah Serafinchon, of the City of Edmonton, in the Province of Alberta,  
SWEAR/AFFIRM AND SAY THAT:

1. I am one of the Applicant Beneficiaries herein, and as such have knowledge of the matters hereinafter disposed to.
2. This matter involving the 1985 Trust has been brought forward to the Court by the five trustees of the 1985 Trust: Bertha Twin- L'Hirondelle, Clara Twin-Midbo, Catherine Twinn, Roland C. Twinn, and Walter Felix Twin (hereinafter referred to as the "Sawridge Trustees"). I understand that Walter Felix Twin has resigned and that Clara Midbo is now deceased and that they have been replaced as Sawridge Trustees by Justin Twin and Margaret Ward.
3. I understand that the Sawridge Trustees are seeking the opinion, advice and direction of the Court respecting the administration and management of the property held under the 1985 Trust (the "Advice and Direction Application") in respect to:
  - a. the definition of the term "Beneficiaries" contained in the 1985 Trust if necessary, to vary the 1985 Trust to clarify the definition of "Beneficiaries"; and
  - b. the transfer of assets into the 1985 Trust.
4. I make this Affidavit in support of a motion:
  - (i) to be added as a party in the Advice and Direction Application and to have my counsel participate in the Court proceedings relating to the definition of "Beneficiaries" contained in the 1985 Trust and the transfer of assets

into the 1985 Trust brought forward by the Sawridge Trustees in the Advice and Direction Application; and

- (ii) for advance costs and full indemnification of costs from the 1985 Trust and the 1986 Trust.

### **The Trusts**

5. In 1985, my father, Walter Patrick Twinn, established the 1985 Trust to hold certain properties in trust for members of the Sawridge First Nation. I understand that the Beneficiaries of the Trust were defined as all persons who at the time qualify as members of the Sawridge Indian Band No. 19 pursuant to the provisions of the Indian Act R.S.C. 1970 as it existed on April 15, 1982. The Sawridge Trusts Website provides as follows:

The beneficiaries of The Sawridge Band Inter-Vivos Settlement at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band No. 454 pursuant to The Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after April 15, 1985, all persons at such particular time as would qualify for such membership pursuant to the said provisions as they existed on April 15, 1985.

6. In 1986, my Father established the Sawridge Trust, August 15, 1986 (the "1986 Trust") (collectively with the 1985 Trust, the "Sawridge Trusts"). The Sawridge Trusts Website provides as follows:

The beneficiaries of The Sawridge Trust at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band under the laws of Canada in force at that time, including the membership rules and customary laws of the Sawridge Indian Band as they 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

7. Attached hereto and marked as Exhibit "A" is a true copy of the Sawridge Trusts website "Beneficiaries" tab viewed on July 25, 2016.

### **Background**

8. I was born on October 2, 1961. My father was the Canadian Chief of the Sawridge First Nation from 1966 to October 30, 1997, when he died ("Chief Walter Twinn").
9. My mother, Lillian McDermott, is recognized as a Status Indian with the Canadian Federal Government under the *Indian Act*. My mother's Indian Registry number has the Sawridge Band 454. My maternal grandmother, is Marie Louise Sawan. Marie Louise Sawan's mother or grandmother was Amelia Nisotesis, sister to my paternal grandfather Paul Twin (Nisotesis). My maternal grandfather, Myles McDermott was also Indian and I believe he was entitled to be recognized as an Indian. His mother, my paternal grandmother, was an Indian from Treaty 8.
10. My biological parents were closely related. I believe my paternal grandfather, Paul Twin (Nisotesis) and my maternal grandmother or great-grandmother, Amelia Nisotesis, were brother and sister and the children of Charles Nisotesis and Isabelle Courteoreille. Both my parents attended Indian Residential School at Grouard.
11. I was born an illegitimate child and was placed in foster care at birth and was raised in that system. As an adult I searched for my birth parents. I discovered my biological mother first who informed me of who my father was. Shortly after I found my mother, she died.
12. I contacted my father in 1996, the year before his death, and we spoke many times. Before we were able to meet, my father passed away suddenly. On the



same day as his passing, I fell in my bathroom and have been wheel chair bound since.

13. Patrick Twinn is my co-Applicant in the within motion. He is also my brother. We share the same father. Patrick Twinn's mother is a member of the Sawridge First Nation (the "Sawridge Band") and a beneficiary under both Sawridge Trusts. Patrick is recognized as a Status Indian and is on the Sawridge Band list. Patrick Twinn is a Beneficiary of the 1985 Trust and the 1986 Trust.
14. Roland C. Twinn is my brother. We share the same father. Roland C. Twinn's mother is Theresa Auger. Roland C. Twinn is currently the elected Chief of the Sawridge First Nation and is a Beneficiary under the 1985 Trust (collectively with Patrick Twinn, my "Brothers"). I understand that Roland Twinn's mother chose to enfranchise for a large per capital pay out and is therefore not a member of the Sawridge First Nation nor a beneficiary of either of the Sawridge Trusts.
15. In 2002, I applied for Indian Status registration through the office of Lesser Slave Lake Indian Regional Council ("LSLIRC"). LSLIRC is governed by a board of 5 Chiefs, my brother Roland C. Twinn being one of them. I have no relationship with Roland C. Twinn. Although both my biological parents qualify as Indians, I have not been registered.
16. At some point, I was informed by LSLIRC that the DNA sample I had provided proving that Chief Walter Twinn was my father was inadequate for registration and that I would need two of my father's sisters to attest that I was his daughter. At the time, there were three living sisters, two of whom, Bertha L'Hirondelle and Clara Midbo are named Trustees in this action. I believe this requirement to be impossible and have since given up obtaining registration.
17. I may be excluded as a Beneficiary under the 1985 Trust as a result of being born an illegitimate female. As an illegitimate female child who is the direct descendant in the male line of a Sawridge First Nation member, I am not entitled to be a Beneficiary as a result of the language in the *Indian Act* of 1970. As male descendants, both my Brothers are. I believe this to be discriminatory.

18. I believe that I should have the same entitlement as my brothers and other siblings who are considered Beneficiaries of the 1985 Trust and the 1986 Trust.
19. I also believe that if the *Indian Act* of 1970 is read to include both male and female offspring of a male Indian, as well as illegitimate and legitimate offspring, then I am entitled to be a Beneficiary under the 1985 Act. I may also have an absolute right from birth to be on the Sawridge Band list. If the proposal of the Sawridge Trustees in the application for Advice and Direction is accepted however, I am not entitled to be a Beneficiary under the 1985 Trust because I am not on the Chief and Council controlled Sawridge Band List.
20. I understand that the Sawridge Trustees, with the exception of Catherine Twinn, are seeking to vary the definition of "Beneficiary" under the 1985 Trust on the basis that they have decided it is discriminatory and that they seek to amend the definition of "Beneficiary" to band members only – a list of individuals that the Chief and Council currently dominate and control. This is, in my experience, a far worse form of discrimination.
21. Accordingly, I am directly affected by the matter brought forward by the Sawridge Trustees in the Advice and Direction Application involving the 1985 Trust and I am a potential Beneficiary thereunder.

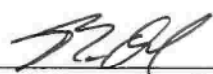
#### **Need for Advance Costs and Indemnity**

22. I am seeking advance costs and full indemnification for costs of this action from the 1985 Trust. Absent this award, there is no other realistic option for me to bring this issue to Court. Without this financial assistance, there is simply no way that I can proceed.
23. My biological parents found out they were related after I was conceived. As a result of the Residential School program, they were not aware of this fact before. I believe that as a result they did not marry and I was placed in the foster care system. I do not believe that I am the only potential Beneficiary to have been placed in the foster care system or born illegitimate and raised outside of the Sawridge First Nation. This impacts my and others' children and grandchildren. I

believe that a determination of interests like mine are of public importance, and have not been resolved to date. The Court in the Advice and Direction Application is the appropriate forum where these issues can be fairly addressed.

24. As outlined above, both my mother and father are direct descendants of Charles Nisotesis and Isabelle Courteoreille whose names were on the Keenooshayoo's Band Pay List, paid at Sawridge, when Treaty 8 was concluded in 1899 at Lesser Slave Lake. Both were recognized as Status Indians under the *Indian Act*, and in the case of my father, after 1951 when the Band List first appeared, he was on the Sawridge Band List. I should have the same entitlements to the 1985 Trust as my male siblings. I should also have the same entitlements as my female siblings without discrimination based on legitimacy or illegitimacy. I, and people like me, are not currently represented in this Action. Accordingly, my opinion, advice and direction for the definition of "Beneficiaries" contained in the 1985 Trust and the transfer of assets into the 1985 Trust brought forward by the Sawridge Trustees in the Advice and Direction Application is critical to reaching a fair and just determination.

SWORN (OR AFFIRMED) BEFORE )  
ME at St. Albert., Alberta, this 26<sup>th</sup> day )  
of July, 2016. )

  
\_\_\_\_\_  
Commissioner for Oaths in and for the )  
Province of Alberta )

**BALRAJ DEOL**  
Barrister & Solicitor )

  
\_\_\_\_\_  
**DEBORAH SERAFINCHON**

# Exhibit A

## Beneficiaries

Beneficiaries must presently meet the following requirements set out in the Trust Deeds of the two Trusts:

### The Sawridge Band Inter-Vivos Settlement, 15 April 1985

"The beneficiaries of The Sawridge Band Inter-Vivos Settlement at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band No. 454 pursuant to The Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after April 15, 1985, all persons at such particular time as would qualify for such membership pursuant to the said provisions as they existed on April 15, 1985."

### The Sawridge Trust, 15 August 1986

"The beneficiaries of The Sawridge Trust at any particular time are all persons who at that time qualify as members of The Sawridge Indian Band under the laws of Canada in force at that time, including the membership rules and customary laws of The Sawridge Indian Band as they 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."

This is exhibit A referred to  
in the Affidavit of

DEBORAH SETRAFINCHON

Sworn before me this 26<sup>th</sup>

Day of July A.D. 2016

B. Deol  
A Commissioner for Oaths in and for  
the Province of Alberta

**BALRAJ DEOL**  
Barrister & Solicitor

Clerk's stamp:



COURT FILE NUMBER

1103 14112

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**

**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**

**APPLICANTS**

**ROLAND TWINN, CATHERINE TWINN,  
WALTER FELIX TWIN, BERTHA  
L'HIRONDELLE, and CLARA MIDBO, as  
Sawridge Trustees for the 1985 Sawridge Trust**

**DOCUMENT**

**AFFIDAVIT OF PAUL BUJOLD**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT

Dentons Canada LLP  
2900 Manulife Place  
10180 - 101 Street  
Edmonton, AB T5J 3V5

Attention: Doris C.E. Bonora  
Telephone: (780) 423-7100  
Fax: (780) 423-72764  
File No: 551860-1-DCEB

**Sworn on the 31<sup>st</sup> day of October, 2016**

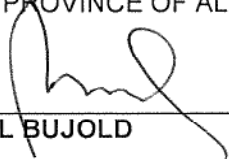
I, Paul Bujold, of Edmonton, Alberta make oath and say that:

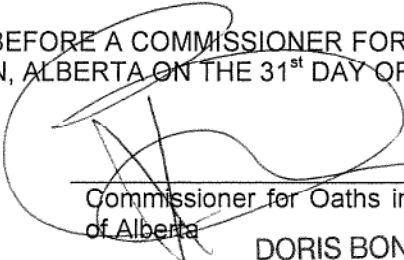
1. I am the Chief Executive Officer of the 1985 Sawridge Trust and as such have personal knowledge of the matters hereinafter deposed to unless stated to be based upon information and belief, in which case I verily believe the same to be true.
2. Pursuant to the Order granted by the Honourable Mr. Justice D.R.G. Thomas on August 31, 2011 (the "August 31 Order"), a copy of which is attached hereto and marked as Exhibit "A", I did serve

Patrick Twinn with a filed copy of the August 31 Order, by sending the same via registered mail to Patrick Twinn at his Edmonton address. I verily believe that the registered mail sent to Patrick Twinn was delivered to his attention.

3. Pursuant to the August 31 Order, I did serve Deborah Serafinchon with a filed copy of the August 31 Order, by sending the same via registered mail to Deborah Serafinchon at the address provided by her in her potential beneficiary application form, a copy of which form is attached hereto and marked as Exhibit "B", which form was received in response to a newspaper advertisement published by the Trustees. I verily believe that the registered mail sent to Deborah Serafinchon was delivered to her attention.
4. I have been advised by Doris Bonora, lawyer for the Trustees of the Sawridge Trust, and verily believe that, her office sent a letter to the Office of the Public Guardian and Trustee asking if their office continues to represent the child beneficiaries who have become adults during the course of litigation. I have been advised by Doris Bonora and verily believe that to date no response has been received from the Office of the Public Guardian and Trustee.
5. Attached hereto and marked as Exhibit "C" to my Affidavit is an email received by Doris Bonora on September 4, 2016 from Sandi Shannon of Borden Ladner Gervais LLP, counsel for Patrick Twinn, Melissa Megley, Shelby Twinn and Deborah Serafinchon advising that Melissa will represent herself and file an affidavit. I am advised by Doris Bonora that no affidavit has been served.

SWORN OR AFFIRMED BY THE DEONENT BEFORE A COMMISSIONER FOR OATHS IN AND FOR THE PROVINCE OF ALBERTA, AT EDMONTON, ALBERTA ON THE 31<sup>st</sup> DAY OF OCTOBER, 2016.

  
PAUL BUJOLD

  
Commissioner for Oaths in and for the Province  
of Alberta

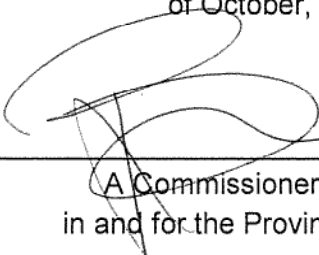
DORIS BONORA  
Barrister and Solicitor  
A Commissioner for Oaths  
in and for Alberta

Appointment Expiry Date



This is Exhibit "A" referred to in the  
Affidavit of PAUL BUJOLD


Sworn before me this 31<sup>st</sup> day  
of October, 2016



---

A Commissioner for Oaths  
in and for the Province of Alberta

DORIS BONORA  
Barrister and Solicitor  
A Commissioner for Oaths  
in and for Alberta

	Clerk's stamp:
COURT FILE NUMBER	1103-14112
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	EDMONTON
	<p>IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000, c. T-8, AS AMENDED</p> <p>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 Sawridge Trust")</p>
APPLICANTS	ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE, and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust
DOCUMENT	<b>Order</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<p>Attention: Doris C.E. Bonora Reynolds, Mirth, Richards &amp; Farmer LLP 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8</p> <p>Telephone: (780) 425-9510 Fax: (780) 429-3044 File No: 108511-001-DCEB</p>

Date on which Order Pronounced: August 31, 2011

Name of Justice who made this Order: D. R. G. Thomas

UPON the application of the Trustees of the 1985 Sawridge Trust (the "Applicants" or the "Trustees"); AND UPON hearing read the Affidavit of Paul Bujold, IT IS HEREBY ORDERED AND DECLARED as follows:

### Application

1. An application shall be brought by the Trustees of the 1985 Sawridge Trust for the opinion, advice and direction of the Court respecting the administration and management of the property held under the 1985 Sawridge Trust (hereinafter referred to as the "Advice and Direction Application"). The Advice and Direction Application shall be brought:
  - a. To seek direction with respect to the definition of "Beneficiaries" contained in the 1985 Sawridge Trust, and if necessary to vary the 1985 Sawridge Trust to clarify the definition of "Beneficiaries".
  - b. To seek direction with respect to the transfer of assets to the 1985 Sawridge Trust.

### Notice

2. The Trustees shall send notice of the Advice and Direction Application to the following persons, in the manner set forth in this Order:
  - a. The Sawridge First Nation;
  - b. All of the registered members of the Sawridge First Nation;
  - c. All persons known to be beneficiaries of the 1985 Sawridge Trust and all former members of the Sawridge First Nation who are known to be excluded by the definition of "Beneficiaries" in the Sawridge Trust created on August 15, 1986, but who would now qualify to apply to be members of the Sawridge First Nation;
  - d. All persons known to have been beneficiaries of the Sawridge Band Trust created on April 15, 1982 (hereinafter referred to as the "1982 Sawridge Trust"), including any person who would have qualified as a beneficiary subsequent to April 15, 1985;
  - e. All of the individuals who have applied for membership in the Sawridge First Nation;
  - f. All of the individuals who have responded to the newspaper advertisements placed by the Applicants claiming to be a beneficiary of the 1985 Sawridge Trust;
  - g. Any other individuals who the Applicants may have reason to believe are potential beneficiaries of the 1985 Sawridge Trust;
  - h. The Office of the Public Trustee of Alberta (hereinafter referred to as the "Public Trustee") in respect of any minor beneficiaries or potential minor beneficiaries; and
  - i. The Minister of Aboriginal Affairs and Northern Development Canada (hereinafter referred to as the "Minister") in respect, *inter alia*, of all those

persons who are Status Indians and who are deemed to be affiliated with the Sawridge First Nation by the Minister.

(those persons mentioned in Paragraph 2 (a) – (i) shall collectively be referred to as the “Beneficiaries and Potential Beneficiaries”)

3. Notice of the Advice and Direction Application on any person shall not be used by that person to show any connection or entitlement to rights under the 1982 Sawridge Trust or the 1985 Sawridge Trust, nor to entitle a person to being held to be a beneficiary of the 1982 Sawridge Trust or the 1985 Sawridge Trust, nor to determine or help to determine that a person should be admitted as a member of the Sawridge First Nation. Notice of the Advice and Direction Application is deemed only to be notice that a person may have a right to be a beneficiary of the 1982 Sawridge Trust or the 1985 Sawridge Trust and that the person must determine his or her own entitlement and pursue such entitlement.

#### **Dates and Timelines for Advice and Direction Application**

4. The Trustees shall, within 10 business days of the day this Order is made, provide notice of the Advice and Direction Application to the Beneficiaries and Potential Beneficiaries in the following manner:
  - a. Make this Order available by posting this Order on the website located at [www.sawridgetrusts.ca](http://www.sawridgetrusts.ca) (hereinafter referred to as the “Website”);
  - b. Send a letter by registered mail to the Beneficiaries and Potential Beneficiaries for which the Applicants have a mailing address and by email to the Beneficiaries and Potential Beneficiaries for which the Applicants have an email address, advising them of the Advice and Direction Application and advising them of this Order and of the ability to access this Order on the Website (hereinafter referred to as the “Notice Letter”). The Notice Letter shall also provide information on how to access court documents on the Website;
  - c. Take out an advertisement in the local newspapers published in the Town of Slave Lake and the Town of High Prairie, setting out the same information that is contained in the Notice Letter; and
  - d. Make a copy of the Notice Letter available by posting it on the Website.
5. The Trustees shall send the Notice Letter by registered mail and email no later than September 7, 2011.
6. Any person who is interested in participating in the Advice and Direction Application shall file any affidavit upon which they intend to rely no later than September 30, 2011.
7. Any questioning on affidavits filed with respect to the Advice and Direction Application shall be completed no later than October 21, 2011.
8. The legal argument of the Applicants shall be filed no later than November 11, 2011.

9. The legal argument of any other person shall be filed no later than December 2, 2011.
10. Any replies by the Applicant shall be filed no later than December 16, 2011.
11. The Advice and Direction Application shall be heard January 12, 2012 in Special Chambers.

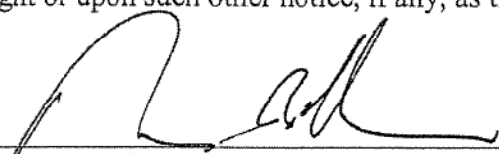
**Further Notice and Service Provisions**

12. Except as otherwise provided for in this Order, the Beneficiaries and Potential Beneficiaries need not be served with any document filed with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument.
13. The Applicants shall post any document that they file with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument, on the Website within 5 business days after the day on which the document is filed.
14. The Beneficiaries and Potential Beneficiaries shall serve the Applicants with any document that they file with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument, which service shall be completed by the relevant filing deadline, if any, contained in this Order.
15. The Applicants shall post all of the documents the Applicants are served with in this matter on the Website within 5 business days after the day on which they were served.
16. The Applicants shall make all written communications to the Beneficiaries and Potential Beneficiaries publicly available by posting all such communications on the Website within 5 business days after the day on which the communication is sent.
17. The Beneficiaries and Potential Beneficiaries are entitled to download any documents posted on the Website by the Applicants pursuant to the terms of this Order.
18. Notwithstanding any other provision in this Order, the following persons shall be served with all documents filed with the Court in regard to the Advice and Direction Application, including any pleading, notice of motion, affidavit, exhibit or written legal argument:
  - a. Legal counsel for the Applicants;
  - b. Legal counsel for any individual Trustee;
  - c. Legal counsel for any Beneficiaries and Potential Beneficiaries;
  - d. The Sawridge First Nation;
  - e. The Public Trustee; and

f. The Minister.

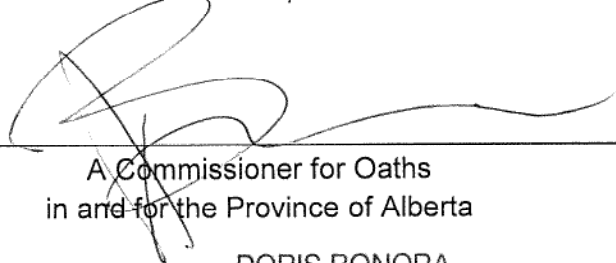
**Variation or Amendment of this Order**

19. Any interested person, including the Applicants, may apply to this Court to vary or amend this Order on not less than 7 days' notice to those persons identified in paragraph 17 of this Order, as well as any other person or persons likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

  
\_\_\_\_\_  
Justice of the Court of Queen's Bench in Alberta  
Thomas J.

This is Exhibit "B" referred to in the  
Affidavit of PAUL BUJOLD

Sworn before me this 31<sup>st</sup> day  
of October, 2016

A handwritten signature in black ink, appearing to be 'Doris Bonora', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long, sweeping tail.

A Commissioner for Oaths  
in and for the Province of Alberta

DORIS BONORA  
Barrister and Solicitor  
A Commissioner for Oaths  
in and for Alberta



BENEFICIARY APPLICATION FORM									
PERSONAL INFORMATION									
NAME	Deborah			Anne			Serafinchon		
	First Name(s)			Middle Name(s)			Last Name(s)		
MAILING ADDRESS	12233-47 St			Edmonton			AB	T5W 2K6	Canada
	Apt/P.O. Box	Street Address			Town		Prov	Postal Code	Country
DATE OF BIRTH	09 10 1961			BIRTH CERTIFICATE <sup>1</sup>					
	Day	Month	Year			Number			
PLACE OF BIRTH	Edmonton			COUNTRY CA					
Telephone	780 477-1133		780 691 6032		780 642 4364		Serafinc@ca.ibm.com djseraf@telus.net		
	Home Phone	Home Fax	Cell Phone	Work Phone	Email Address				
STATUS NUMBER	ARE YOU MARRIED TO A BAND MEMBER?		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, BAND NUMBER?	DID YOU ENFRANCHISE?		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, WHEN, WHICH CATEGORY?	
IF YOU ENFRANCHISED UNDER THE INDIAN ACT, PROVIDE DETAILS INCLUDING SHARE OF PER CAPITA MONIES RECEIVED.									
ARE YOU DESCENDED FROM, MARRIED TO OR ADOPTED BY ONE OF THE ORIGINAL SAWRIDGE TREATY 8 SIGNATORIES?		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, PROVIDE DETAILS Father Walter Twinn						
IF MARRIED, DID YOUR MARRIAGE PRODUCE AND CHILDREN? IF YES, DETAIL NAMES OF CHILDREN.		Neil Serafinchon Lisa Serafinchon John Serafinchon			DID YOU SUBSEQUENTLY RE-MARRY TO ANOTHER PERSON? IF YES, DETAIL NAMES OF CHILDREN AND SPOUSE.				
YOUR STATUS UNDER INDIAN ACT OR PAY LIST AT TIME OF APPLICATION		(x) Application is pending on Indian Status							
WHY DO YOU FEEL YOU ARE ELIGIBLE AS A TRUST BENEFICIARY?		I feel I am eligible due to my family relationship, commitment, character, lifestyle, descent & connections. I feel I am entitled as a direct descendant of Walter Twinn.							
HAVE YOU OR YOUR ANCESTORS LIVED ON THE SAWRIDGE LANDS INCLUDING POST TREATY LANDS SET ASIDE FOR THE EXCLUSIVE USE OF THE SAWRIDGE BAND?		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, PROVIDE DETAILS My biological father lived on the Sawridge reserve along with my brothers & sisters						
MARITAL STATUS (check one)	<input checked="" type="checkbox"/> Married	<input type="checkbox"/> Single	<input type="checkbox"/> Divorced	<input type="checkbox"/> Widowed	<input type="checkbox"/> Common-Law	Other (Specify)			

**BE SURE TO FILL IN OTHER SIDE OF THIS FORM AS WELL**

<sup>1</sup> A copy of the certificate of birth or baptism must be produced with the application. If no certificate is available, then applicants must produce an affidavit confirming the materials contained in the application with the application.

PARENTS INFORMATION							
NAME OF MOTHER	Lillian M McDermott			NAME OF FATHER	Walter Twinn		
DATE OF BIRTH	04	01	43	DATE OF BIRTH	29	03	1934
	Day	Month	Year		Day	Month	Year
STATUS UNDER INDIAN ACT OR PAY LIST AT BIRTH <sup>2,3</sup>	Status			STATUS UNDER INDIAN ACT OR PAY LIST AT BIRTH <sup>2,3</sup>			
IS YOUR MOTHER A SAWRIDGE BAND MEMBER?	<input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO NO	IF YES, WHAT IS HER BAND NUMBER?		IS YOUR FATHER A SAWRIDGE BAND MEMBER?	<input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, WHAT IS HIS BAND NUMBER?	75
DID YOUR MOTHER ENFRANCHISE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, WHEN AND IN WHICH CATEGORY?		DID YOUR FATHER ENFRANCHISE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, WHEN AND IN WHICH CATEGORY?	
ADDRESS	Apt/ P.O. Box, Street Address, Town, Province, Postal Code, Country			ADDRESS	PO Box 1460 AB Canada Slave Lake T0G 2A0 Apt/ P.O. Box, Street Address, Town, Province, Postal Code, Country		
IF DECEASED - DATE OF DEATH	30	08	2000	IF DECEASED - DATE OF DEATH	30	10	1997
	Day	Month	Year		Day	Month	Year
GRANDPARENTS INFORMATION							
NAME OF MATERNAL GRANDMOTHER				NAME OF MATERNAL GRANDFATHER	(Alexander)		
DATE OF BIRTH				DATE OF BIRTH			
	Day	Month	Year		Day	Month	Year
STATUS UNDER INDIAN ACT OR PAY LIST AT BIRTH				STATUS UNDER INDIAN ACT OR PAY LIST AT BIRTH <sup>2,3</sup>			
DID YOUR MATERNAL GRANDMOTHER ENFRANCHISE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, WHEN AND IN WHICH CATEGORY?		DID YOUR MATERNAL GRANDFATHER ENFRANCHISE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, WHEN AND IN WHICH CATEGORY?	
NAME OF PATERNAL GRANDMOTHER	Irene Cunningham			NAME OF PATERNAL GRANDFATHER	Paul Neesotasis		
DATE OF BIRTH	3	Dec	1905	DATE OF BIRTH	6	APR	1888
	Day	Month	Year		Day	Month	Year
STATUS UNDER INDIAN ACT OR PAY LIST AT BIRTH	Under Current Indian Act entitled to be recognized as Indian			STATUS UNDER INDIAN ACT OR PAY LIST AT BIRTH <sup>2,3</sup>	Treaty Indian		
DID YOUR PATERNAL GRANDMOTHER ENFRANCHISE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, WHEN AND IN WHICH CATEGORY?		DID YOUR PATERNAL GRANDFATHER ENFRANCHISE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, WHEN AND IN WHICH CATEGORY?	
SIGNATURE	I hereby certify that the information in this form is true and correct. I give permission to Sawridge Trusts to share this information with those who need it to determine my status as a beneficiary.					DATE	

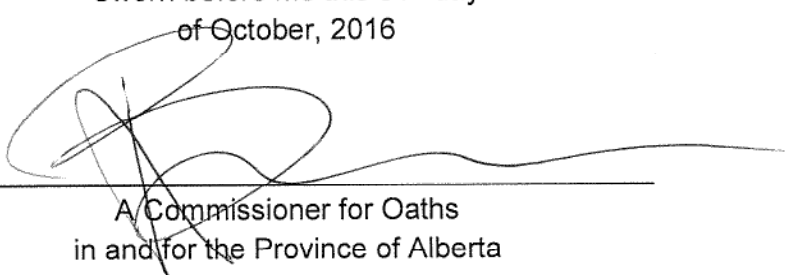
PLEASE DO NOT FORGET TO SEND COPIES OF RELEVANT DOCUMENTS LISTED BELOW, IF APPLICABLE.

MAIL APPLICATION AND DOCUMENTS TO:

Sawridge Trusts, 801, 4445 Calgary Trail NW, Edmonton, AB T6H 5R7, Fax: (780) 988-7724, Email: general@sawridgetrusts.ca

This is Exhibit "C" referred to in the  
Affidavit of PAUL BUJOLD

Sworn before me this 31<sup>st</sup> day  
of October, 2016



---

A Commissioner for Oaths  
in and for the Province of Alberta

DORIS BONORA  
Barrister and Solicitor  
A Commissioner for Oaths  
in and for Alberta



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**From:** Shannon, Sandi [mailto:SShannon@blg.com]  
**Sent:** 4-Sep-16 9:27 PM  
**To:** Bonora, Doris  
**Cc:** Golding, Nancy L.  
**Subject:** RE: Sawridge Band Inter Vivos Settlement

Hello Doris,

We have discussed with our clients and are available for questioning on September 22, 2016. Please note that Shelby's availability is limited to before 11 a.m. Please let us know who you intend to question.

With respect to Aspen we understand that the OPGT will represent her and at this time do not foresee applying to make someone her litigation representative. We will advise if for whatever reason this changes.

With respect to Melissa she will likely represent herself and will swear an affidavit that will be provided to you in due course. If you intend to question Melissa please be advised that she has a newborn and will only be able to sit for a maximum of 2 hrs at a time.

Kind Regards,  
Sandi

**BLG**  
Borden Ladner Gervais

Sandi Shannon  
Associate

T 403.232.9782 | F 403.266.1395 | M 403.232.9500 | [sshannon@blg.com](mailto:sshannon@blg.com)

Centennial Place, East Tower, 1900, 520 – 3rd Ave S W, Calgary, AB, Canada T2P 0R3

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THE HONOURABLE MR. JUSTICE  
DENNIS R. THOMAS



THE LAW COURTS  
EDMONTON, ALBERTA  
T5J 0R2  
TEL: (780) 422-2200  
FAX: (780) 427-0334

COURT OF QUEEN'S BENCH OF ALBERTA

June 22, 2017

**SENT VIA E-MAIL**

Ms. Janet Hutchison  
Hutchison Law  
130 Broadway Boulevard  
Sherwood Park, AB T8H 2A3  
Phone: 780-417-7871  
Fax: 780-417-7872  
Email: [jhutchison@ilhlaw.ca](mailto:jhutchison@ilhlaw.ca)

Dear Ms. Hutchison:

**Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust)**  
**Action No. 1103 14112 (the "Action")**

In the course of preparing my decision on the Application by Patrick Twinn et al. to be added as parties and be indemnified for costs, a further request for clarification has occurred to me.

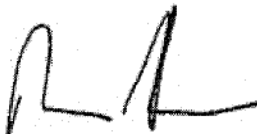
In the Trustees Response Brief filed October 31, 2016, counsel had raised an interesting question in para 26, p 5 of that brief, namely whether the OPTG continues to represent child beneficiaries who have become adults since the commencement of the Action on June 12, 2011.

I am aware from my involvement in other legal proceedings that the OPTG often terminates representation of a child upon that person becoming an adult. I understand that position is driven by cost considerations. However, that sort of consideration does not apply here, because the Trustees must indemnify the OPTG for all reasonable costs of representing an individual who may be affected in this Action.

I request that you confirm on behalf of the OPTG that the OPTG will continue to represent beneficiaries of the 1985 Sawridge Trust who have become adults since the commencement of the Action.

A timely response would be appreciated as that point is something I have under consideration in deciding the outstanding Application by Patrick Twinn et al.

Yours truly

A handwritten signature in black ink, appearing to be 'D.R.G. Thomas', written in a cursive style.

D.R.G. Thomas

/ds

cc Ms. D. Bonora, (Dentons) (via email: [doris.bonora@dentons.com](mailto:doris.bonora@dentons.com))  
Ms. A. Loparco, QC (Dentons) (via email: [anna.loparco@dentons.com](mailto:anna.loparco@dentons.com))  
Ms. N. Golding (Borden Ladner Gervais LLP) (via email: [ngolding@blg.com](mailto:ngolding@blg.com))  
Karen A. Platten, QC (McLennan Ross LLP) via email: [kplatten@mross.com](mailto:kplatten@mross.com)



Our File: 51433 JLH

**SENT BY EMAIL ONLY**

June 23, 2017

Court of Queen's Bench of Alberta  
6<sup>th</sup> Floor Law Courts Building  
1A Sir Winston Churchill Square  
Edmonton, AB T5J OR2

Attention: The Honourable Mr. Justice D.R.G. Thomas

**Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust); QB Action No. 1103  
14112; Patrick Twinn Standing Application**

Thank you for your correspondence of June 22, 2017. I have consulted with my client and can advise I have instructions to confirm that the OPGT will continue to represent beneficiaries of the 1985 Sawridge Trust who have become adults since the commencement of the Action.

If anything further is required, please do not hesitate to contact me.

Thank you for your attention to this matter.

Yours truly,

**HUTCHISON LAW**

**PER: JANET L. HUTCHISON**

JLH/cm

cc: Client

cc: K. Platten, and C. Osualdini, McLennan Ross LLP

cc: N. Golding, BLG LLP

cc: D. Bonora, Dentons LLP



1 COURT FILE NO: 1103 14112  
2 COURT: QUEEN'S BENCH OF ALBERTA  
3 JUDICIAL CENTRE: EDMONTON  
4

5 IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000,  
6 c.T-8 as amended

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

10

11 APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER  
12 FELIX TWIN, BERTHA L'HIRONDELLE and  
13 CLARA MIDBO, as TRUSTEES FOR THE 1985  
SAWRIDGE TRUST

14

15

16

QUESTIONING ON AFFIDAVIT

17

OF

18

PATRICK TWINN

19

20

Ms. D.C.E. Bonora

For the Applicants

21

Ms. S.J. Shannon

For Shelby Twinn, Patrick  
Twinn and Deborah Serafinchon

22

23

Ms. C.C. Osualdini

For Catherine Twinn

24

Susan Stelter

Court Reporter

25

26

Edmonton, Alberta

27

22 September, 2016

1 PATRICK TWINN, SWORN AT 11:05 A.M., QUESTIONED BY

2 MS. BONORA:

3 Q MS. BONORA: Do you mind if I call you Patrick?

4 A Please.

5 Q Okay. So Patrick, you are applying to be a party in  
6 Action Number 1103 14112?

7 A Yes.

8 Q And you swore an Affidavit in that action?

9 A Yes.

10 Q And you swore that Affidavit on July 26th, 2016, in St.  
11 Albert?

12 A Correct.

13 Q You say in your Affidavit that you are of Edmonton and  
14 of the Sawridge Indian Reserve. Do you live in both  
15 places?

16 A Yes. So I currently live in Edmonton, my place of work  
17 is here in Edmonton and my family lives here in  
18 Edmonton.

19 Q And can you tell me what your occupation is?

20 A Yeah, I am a -- well, my title is project manager for  
21 Ballad Consulting Group.

22 Q Okay, very good. What kind of work does that entail?

23 A Well, we were management consultants and work with a  
24 variety of different indigenous groups and assist them  
25 with their economic developments goals.

26 Q Very interesting. And what is your level of education?

27 A Bachelor's degree.

1 Q Okay. In?

2 A Hotel management.

3 Q Okay. And was that education paid for from the 1986  
4 Trust?

5 A Yes, I received support from the Trust.

6 Q Okay. And you are a member of Sawridge First Nation?

7 A Yes.

8 Q And how did you become a member?

9 A Well, I am my father's son. My father was Chief of the  
10 Sawridge First Nation.

11 Q And is it true that, in fact, you would become a member  
12 because both of your parents were members of the  
13 Sawridge First Nation?

14 A I am not sure what you mean.

15 Q You are saying that your membership comes from your  
16 father being a chief and a member?

17 A M-hm.

18 Q And I am asking you if you have understood that perhaps  
19 your membership comes from the fact that both of your  
20 parents were members of the Sawridge First Nation?

21 A Yes, they are both members of the Sawridge First  
22 Nation.

23 Q But you believe your membership comes from your father?

24 A No, I didn't say that.

25 Q Okay.

26 A I said that it came from my father's side, but I am a  
27 member of the Sawridge First Nation because my mom is a

1 member and my father is a member.

2 Q Okay. And you believe that you are a beneficiary of  
3 the 1985 Trust?

4 A Yes.

5 Q Okay. And you understand that the 1103 action that we  
6 are talking about, the one that you have sworn an  
7 Affidavit in, involves the 1985 Trust, correct?

8 A Correct.

9 Q And do you understand that the beneficiaries currently  
10 of the 1985 Trust and the 1986 Trust are different?

11 A Yes.

12 Q Now you have sought an accounting of the 1986 Trust in  
13 the 1103 action; is that correct?

14 A I requested an accounting of financial statements for  
15 the trusts.

16 Q Right.

17 A I requested the financial statements. What I was  
18 hoping to get was a budget and look at money in, money  
19 out.

20 Q So I just want to concentrate on the action. I  
21 understand that you made a request outside of this  
22 action, correct?

23 A Yes.

24 Q Okay. And so in respect of this action you are seeking  
25 an accounting not just of the '85 Trust but an  
26 accounting of the '86 Trust as well?

27 A Correct.

1 Q And have you done anything to notify anyone, any of the  
2 beneficiaries of the 1986 Trust, about your application  
3 with respect to the 1986 Trust accounting?

4 A I am not sure what you mean.

5 Q Have you notified anyone else that you are seeking an  
6 application in respect of the 1986 Trust?

7 A In regards to my Affidavit?

8 Q In regards to your -- you are making an application to  
9 be a party?

10 A M-hm.

11 Q You are making an application for an accounting of the  
12 '85 Trust?

13 A Yes.

14 Q You are making an application for an accounting in the  
15 '86 Trust, correct?

16 A Yeah.

17 Q Okay. And I am saying have you served any of the  
18 beneficiaries or notified any of the beneficiaries of  
19 the 1986 Trust with respect to your application for an  
20 accounting?

21 A Sorry, I am not sure what you are getting at here.

22 Q It is pretty simple. Have you notified any of the  
23 beneficiaries? Do you understand what that means?

24 A Yes, yes, I understand what that means.

25 Q Have you notified any of the beneficiaries of the 1986  
26 Trust of your application for an accounting of the 1986  
27 Trust?

1 A Okay, so I understand that there is two trusts. Now I  
2 am not a lawyer and I don't understand the legal, you  
3 know, variations between the trusts. I understand that  
4 the 1985 Trust was set up to benefit the beneficiaries  
5 in accordance with the Indian Act, and then there was a  
6 Trust which was later set up because there was going to  
7 be amendments to take place.

8 Now with respect to the beneficiaries of the '85  
9 Trust and the '86 Trust, I'm not sure who falls into  
10 what category. So when you say beneficiaries of the  
11 '86 Trust or beneficiaries of the '85 Trust, I'm not  
12 sure what you are getting at, and what beneficiaries  
13 would classify as those beneficiaries?

14 Q So my question was far simpler.

15 A Okay.

16 Q Have you taken any steps to notify any beneficiaries  
17 that you are aware of of the 1986 Trust of your  
18 application for an accounting?

19 A For an accounting, yes.

20 Q So what steps did you take to notify the beneficiaries  
21 of the 1986 Trust?

22 A I have made some verbal communications to some of the  
23 beneficiaries that I have requested financial  
24 statements.

25 Q Okay. And that is all that you have done?

26 A Yes.

27 Q And who are those people that you made those verbal

1           communications to?

2     A     Well, I have discussed that with some of my brothers  
3           and I have discussed that with my mother.

4     Q     Now you recently had a daughter named Aspen. Can you  
5           tell me her date of birth?

6     A     Yeah, she was born on July 10th.

7     Q     And initially you said in your application that you  
8           were representing her. Is it your understanding now  
9           that the Office of the Public Guardian and Trustee is  
10          representing her?

11    A     From my understanding, yes.

12    Q     And so will you be withdrawing your application to make  
13          her a party?

14    A     I am not sure what that means.

15    Q     Part of your application was to represent her and make  
16          her a party to this application. And now that you know  
17          that she is being represented by the Office of the  
18          Public Guardian and Trustee are you still pursuing that  
19          part of your application?

20    A     Well, honestly I am not really sure what that  
21          specifically means and how that is going to affect her  
22          application. So I am not sure.

23    Q     So are you saying that you are still pursuing your  
24          application?

25    A     I'm saying I am not sure.

26    Q     Okay. And is there some way to make yourself sure  
27          about that answer?

1 A Yes, I would have to consult with my counsel and, you  
2 know, I would have to have them inform me because I  
3 don't fully understand what that means.

4 Q Okay. So will you undertake to do that for me?

5 A Sure.

6 MS. SHANNON: We will make that.

7 UNDERTAKING NO. 1:

8 RE ADVISE IF APPLICATION ON BEHALF OF  
9 PATRICK TWINN'S DAUGHTER IS STILL BEING  
10 PURSUED NOW THAT THE OFFICE OF PUBLIC  
11 TRUSTEE AND GUARDIANSHIP IS INVOLVED.

12 Q MS. BONORA: Now it is my understanding that you  
13 were married subsequent to Aspen being born; is that  
14 correct?

15 A That is correct.

16 Q And you have also made an application to represent your  
17 wife in this action, and I understand now that your  
18 wife will be making her own application to be a party  
19 to this action; is that correct?

20 A She will be swearing an Affidavit, yes.

21 Q That is not my question. My question is, you asked in  
22 this application to represent her. And now I am asking  
23 you, is she going to be making her own independent  
24 application to become a party?

25 A That kind of translates with, you know, the same with  
26 Aspen. I'm going to have to consult with my counsel  
27 about that and I will have to get back to you on that.



1 Q Will you undertake to do that?

2 A I will.

3 MS. SHANNON: We will make the undertaking.

4 UNDERTAKING NO. 2:

5 RE ADVISE IF PATRICK TWINN'S WIFE WILL

6 BE MAKING HER OWN INDEPENDENT

7 APPLICATION TO BECOME A PARTY IN THE

8 ACTION.

9 Q MS. BONORA: Is your wife a member of the  
10 Sawridge First Nation?

11 A Currently she is not a member of the Sawridge First  
12 Nation.

13 Q Is she a status Indian?

14 A Currently she is not a status Indian.

15 Q Has she applied to become a member of the Sawridge  
16 First Nation?

17 A She has not applied to be a member of the Sawridge  
18 First Nation, no.

19 Q Will she have an entitlement to apply for Indian  
20 status?

21 A I don't think so, but I am not sure.

22 Q Your understanding is that your daughter, Aspen, is  
23 being represented by the Office of the Public Guardian  
24 and Trustee, correct?

25 A My understanding is that is correct.

26 Q When did you learn of the application for advice and  
27 direction to amend the beneficiary definition in the

1 1985 Trust?

2 A Well, there was a proposed variation which was filed, I  
3 believe, by your office in January of this past year.

4 Q So you understood -- so the only time you became aware  
5 of the application was in 2015?

6 A What I am saying is, there was a proposed variation to  
7 the Trust which would alter the -- the trustees and the  
8 Trust were proposing to vary the definition of  
9 beneficiary status to basically band membership.

10 Q Are you aware that the action for advice and direction  
11 commenced in 2011?

12 A Yes, I am.

13 Q So you were aware of the action when it commenced in  
14 2011?

15 A It might not have been 2011, but I was aware prior.  
16 But once I saw the proposed variation and what that  
17 would actually mean, that is when I decided to take  
18 action.

19 Q So is it true to say that you were aware of the action  
20 around 2011?

21 A Perhaps.

22 Q By 2012 you would have been aware of the action?

23 A I don't recall.

24 Q You have been aware of the action for some time?

25 A Sure.

26 Q Have you been aware of the action long before 2015?

27 A I wouldn't say long before 2015. I would say at some

1 point maybe. I don't recall though.

2 Q And you are aware of the web site that has the  
3 documents posted to it?

4 A Yes, I am.

5 Q And have you accessed that web site?

6 A I have accessed it recently in the past year, yes.

7 Q And is it true that you are a beneficiary of the 1985  
8 Trust?

9 A From my understanding, yes.

10 Q And a beneficiary of the 1986 Trust?

11 A From my understanding, yes.

12 Q And is it true that if the definition in the 1985 Trust  
13 is changed to members you would still be a beneficiary  
14 of that Trust?

15 A Yes, that is correct. But my wife and my daughter  
16 would most likely not be beneficiaries of the Trust.

17 Q Your wife and your daughter could apply to become  
18 members of the Sawridge First Nation?

19 A Sure, they could in theory apply. However, the current  
20 membership rules at this point are not only extremely  
21 inconsistent, but to me they lack the basic principals  
22 of fairness and due process. But I am not here to talk  
23 about band membership. I'm here to talk about the  
24 variation being proposed by the trustees.

25 Q So your --

26 A I'm here for my daughter and I'm here for my wife, and  
27 I'm here for potential beneficiaries that are going to

1 be affected by this proposed variation.

2 Q So you understand when you give me answers I have the  
3 opportunity to pursue those answers and certainly your  
4 Affidavit speaks about band membership, correct?

5 A I think it does reference it.

6 Q Okay. So if your Affidavit speaks about band  
7 membership, then you understand that I am allowed to  
8 ask you questions about that. Do you understand that?

9 A Sure.

10 Q Okay. And so my question was, your daughter has the  
11 right to apply to be a member, correct?

12 A Sure, she has the right to apply. Anyone has the right  
13 to apply.

14 Q And your wife has the right to apply to be a member of  
15 the Sawridge First Nation?

16 A They have the right to apply, yes. That doesn't mean  
17 that they are going to be admitted into band membership  
18 though.

19 Q And it also means they may be admitted into band  
20 membership?

21 A Sure, but given what has happened I don't think that it  
22 is likely that they will be admitted, which is why I  
23 swore this Affidavit and I am here today.

24 Q So that you're prejudging the process?

25 A I wouldn't say that I am prejudging the process. I  
26 would say that I am looking out for the best interests  
27 of my family and the people that I love.

1 Q You are aware of the membership process?

2 A I have a very, very basic understanding of it. I have  
3 never sat on council, I don't go to band meetings very  
4 often, but I have an understanding of it, yes.

5 Q And what is your understanding of the process?

6 A Well, there is a process to apply for band membership,  
7 which is quite cumbersome. And previous I believe  
8 there was a membership committee which, you know, so  
9 happens the current Chief was the chair of. But to my  
10 knowledge the committee has been disbanded and it is  
11 now, I believe, being controlled by Chief and council.

12 Q And are you aware that there is an appeal to the  
13 electors after a decision by Chief and council?

14 A Sorry, what does that mean? I'm not sure.

15 Q Are you aware that if an application for membership is  
16 rejected by Chief and council that the applicant may  
17 apply to have an appeal in front of all of the electors  
18 of the Sawridge First Nation?

19 A Yes, I am, yeah.

20 Q And are you aware that after that process if the person  
21 has not been accepted as a member that they still have  
22 a further appeal to the Federal Court?

23 A I did not know about the further appeal, no. But I  
24 don't know how a single person could, you know, make an  
25 appeal to the Federal Court. Litigation is extremely  
26 expensive, as you should know.

27 Q So you are not aware of the appeal process to the

1 Federal Court?

2 A I wasn't until now.

3 Q Okay. And in respect of your interest in this Trust,  
4 and the change in the beneficiary designation, you  
5 don't have any difficulties with making the definition  
6 more expansive?

7 A What do you mean by that?

8 Q You don't have any concern about making the definition  
9 more expansive than just members of the Sawridge First  
10 Nation?

11 A Well, I have an objection to the proposed variation.  
12 That is why I am here.

13 Q Right. So I will just ask you the question again. My  
14 question is very specific. Do you have any opposition  
15 to having a beneficiary definition that is more  
16 expansive than members of the Sawridge First Nation?

17 A More inclusive I would say.

18 Q So what does more inclusive mean to you?

19 A Well, as I mentioned prior, you know, the current  
20 membership process is extremely inconsistent. So I  
21 would like to see something that is -- that is more  
22 fair, has greater due process.

23 Q So now you have moved your answer to the membership  
24 process, but that wasn't my question. So I will try  
25 again. Perhaps it is my question that is causing you  
26 trouble?

27 A Perhaps.

1 Q My question is specifically with respect to the  
2 beneficiary definition of the Trust?

3 A M-hm.

4 Q Do you understand the topic now?

5 A Yeah, I understand the topic, yeah.

6 Q So with respect to the beneficiary definition of the  
7 Trust I am asking you is it acceptable to you to have a  
8 definition that has a number of people beyond the  
9 members of the Sawridge First Nation?

10 A Beyond the members today, yes.

11 Q In your application you are applying to become a party,  
12 correct?

13 A Yup.

14 Q And you hired Borden Ladner Gervais?

15 A M-hm.

16 Q You have to say yes or no.

17 A Yes.

18 Q And can you tell me if you paid them a retainer?

19 A I did.

20 Q And what was the retainer that you paid them?

21 A \$5,000.

22 Q And you paid that personally?

23 A Yes, I did receive some support from my mom for that,  
24 but.

25 Q In paragraph 3 of your Affidavit you talk about the  
26 application being in relation to the definition of  
27 beneficiaries and the transfer of assets. Do you see

1       that?

2     A     Sorry, paragraph 3? Which one are we looking at, what  
3       sentence?

4     Q     I am referring to the whole of your first paragraph in  
5       paragraph 3, and then 3(b)?

6     A     Okay, and your question was?

7     Q     You say that you are making this application in respect  
8       of the application to involve the transfer of assets,  
9       correct? And do you see -- perhaps if you read 4(i) as  
10      well.

11    A     Okay, yeah, I get it.

12    Q     So I am asking you are you aware that the transfer of  
13      assets is settled by court order in an application that  
14      was done recently in court?

15    A     I was -- well, actually I am not sure about that, no.

16    Q     And so is it your intention to continue to pursue the  
17      issue of the transfer of assets if you are made a party  
18      to this litigation?

19    A     I'm not really sure what that means.

20    Q     You say in paragraph 4(i) of your Affidavit that you  
21      wish to be added as a party in the advice and direction  
22      application and to have my counsel participate in the  
23      court proceedings relating to the definition of  
24      beneficiaries contained in the 1985 Trust, and the  
25      transfer of assets into the 1985 Trust brought forward  
26      by the Sawridge trustees in the advice and direction  
27      application.



1 Do you see that?

2 A Yes.

3 Q So this is your Affidavit, and you have said that you  
4 are asking your counsel to participate in the issue  
5 involving transfer of assets into the 1985 Trust?

6 A Yeah.

7 Q So do you understand that part, that you are asking  
8 your counsel to participate in that issue?

9 A Yeah.

10 Q Okay. And so now I am asking you, are you continuing  
11 to ask your counsel to participate in that issue if you  
12 are made a party?

13 A Yes.

14 Q Okay. Is it true that your application for full  
15 indemnity cost is adjourned until you are made a party?

16 MS. SHANNON: Counsel, there is a lot of legalese  
17 in that question. Maybe we can break it down.

18 Q MS. BONORA: You don't understand that question?

19 A No.

20 Q Okay. Have you made an application for full indemnity  
21 costs?

22 A I believe it is on my Affidavit, yes.

23 Q And do you understand what full indemnity costs are?

24 A Yeah.

25 Q What does that mean to you?

26 A That my legal costs will be covered in this matter.

27 Q And they will be covered by who?

1 A The Trust.

2 Q Okay. And are you proceeding with that application  
3 before or at the same time as you are being made a  
4 party?

5 A Well, I mean I need to be -- we need to be indemnified,  
6 because I don't have the funds to carry this legal  
7 battle on my own.

8 Q Have you been told how much the legal battle will cost?

9 A Well, I have an idea of how much lawyers bill per hour.

10 Q Have you been told how much the legal battle will cost?

11 A I have not.

12 Q Have you asked that question?

13 A No.

14 Q How do you know that you cannot afford it if you have  
15 not asked that question?

16 A Because I understand how much work is involved in this.  
17 I'm not a lawyer, but I understand business, and I  
18 understand how much work is involved in this at a  
19 certain rate. And I understand how much that will  
20 equate to over the course of time. So I have an idea  
21 of how much this could cost.

22 Q But you haven't asked that question of your counsel?

23 A No.

24 Q Would it be correct to say that if you proceeded with  
25 this action you also could not afford to pay the costs  
26 that might be awarded against you?

27 A What do you mean by that?

1 Q Do you understand that if you are unsuccessful in  
2 litigation that costs may be awarded against you by the  
3 court?

4 A Against me? Be more specific.

5 Q Do you know that you might be asked to pay costs in a  
6 court action if you are unsuccessful?

7 A I am not, no.

8 Q You have never been told or understood that if, as a  
9 party to an action that you may be obligated to pay  
10 costs in an action?

11 A So are you saying that I am going to be obligated to  
12 pay costs?

13 Q No, I'm saying have you ever been told that you might  
14 have to pay costs in an action if you are a party?

15 A No.

16 Q And if I tell you now that you may be obligated to pay  
17 costs and costs may be awarded against you, and those  
18 costs can range from several thousand to several tens  
19 of thousands of dollars, would you be able to pay those  
20 costs?

21 A Well, most likely not, no.

22 Q Now how old were you when your father established the  
23 Trust?

24 A Well, the '85 Trust or the '86 Trust?

25 Q Well, you can tell me both.

26 A Well, I was born in October of 1985, so I would have  
27 been 0 in the first one, and a few months in the second

1           one.

2    Q    Okay, thank you. In paragraph 9 of your Affidavit you  
3           say that you are recognized as a member of the Sawridge  
4           First Nation, and have been absolutely entitled as a  
5           beneficiary without exception since my birth.

6    A    M-hm.

7    Q    Can you tell me what you mean by "absolutely entitled  
8           as a beneficiary"?

9    A    Well, from my understanding I would be a beneficiary of  
10          both trusts given my family lineage.

11   Q    And so there is no special language that you are  
12          saying, or any special meaning to absolutely entitled.  
13          You are just saying you are a beneficiary of the 1985  
14          Trust and the 1986 Trust?

15   A    No, I think you are putting words in my mouth and that  
16          is not what I am saying.

17   Q    So that is the purpose of the question, and you are  
18          able to answer it. So what do you mean by the words  
19          "absolutely entitled"?

20   A    Well, I would say that I am an absolute beneficiary,  
21          and that I am a beneficiary of both of these trusts.

22   Q    Okay. And what does it mean "without exception"?

23   A    I would say that it would mean, you know, that I am a  
24          beneficiary without exception because just given my  
25          family lineage. Like there can be no changes in my  
26          beneficiary status.

27   Q    There can be no changes to your beneficiary status in

1       either Trust; is that correct?

2    A    Perhaps.

3    Q    So when you say "perhaps", what do you mean by that?

4    A    Well, I am not really sure of what you are asking right  
5       now.

6    Q    I am just asking about the words that you put in your  
7       Affidavit. I didn't choose these words. You chose  
8       these words.

9    A    Sure.

10   Q    So I am asking you about the words that you chose.

11   A    Then I am not sure what you mean.

12   Q    So let's go back. What do you mean by "without  
13       exception"?

14   A    Well, then I am not sure. I would have to consult with  
15       my counsel about that.

16   Q    So you will undertake to do that?

17   A    I will.

18   MS. SHANNON:               We will accept that undertaking.

19                                UNDERTAKING NO. 3:

20                                RE ADVISE WHAT IS MEANT BY THE PHRASE  
21                                "WITHOUT EXCEPTION" IN PARAGRAPH 9 OF  
22                                PATRICK TWINN'S AFFIDAVIT.

23   Q    MS. BONORA:           Have you reviewed the policies for  
24       payments under the 1986 Trust?

25   A    No.

26   Q    Are you aware that your wife is entitled as your  
27       dependent to receive benefits from the 1986 Trust?

1 A I am aware, but what happens if I die?

2 Q You don't get to ask me the questions.

3 A Okay.

4 Q I am just asking you the questions.

5 A Sure.

6 Q So are you aware that she is entitled to receive  
7 benefits under the policies as a dependent under the  
8 1986 Trust?

9 A I am aware that she is entitled to receive benefits as  
10 a dependent permitting that I am alive.

11 Q So you are suggesting that if you die then she is not  
12 entitled any longer?

13 A She could be, yes. And the same thing with my  
14 daughter.

15 Q So she could be entitled still after you die?

16 A Perhaps. I doubt that she would, though.

17 Q So perhaps, but you doubt that she would is your  
18 answer?

19 A That is what I said.

20 Q And what do you base your doubt on?

21 A Well, the trustees are proposing a variation of the  
22 definition to band membership. Who controls band  
23 membership right now?

24 Q So let's just go back. I was asking you very  
25 specifically about the 1986 Trust.

26 A Okay.

27 Q So it is not about the Trust involving the change in

1 definition, okay?

2 A Okay. But it would be if the definition is changed to  
3 band membership.

4 Q So let's talk about the 1986 Trust.

5 A Okay.

6 Q Is it your understanding that the 1986 Trust, the  
7 definition of beneficiaries, is members of Sawridge  
8 First Nation?

9 A The 1986 Trust?

10 Q Yes.

11 A I am not sure on that one, no.

12 Q Okay. And so you haven't investigated that?

13 A Well, I mean I am not a lawyer. I have looked at the  
14 trusts, and I know that there is two trusts set up, one  
15 in '85 which is to benefit beneficiaries in accordance  
16 with the Indian Act, and then there was the one later  
17 because there was amendments that took place. Now in  
18 terms of specifics, I'm not a lawyer. I don't think  
19 that I should be expected to know that kind of stuff.

20 Q Are you a beneficiary of the 1986 Trust?

21 A To my understanding, yes.

22 Q And do you know why you are a beneficiary of the 1986  
23 Trust?

24 A I have an idea, yes.

25 Q And why are you a beneficiary of the 1986 Trust?

26 A Well, I'm going to have to get back to you on that one.

27 Q So you will undertake to provide me that answer?

1 A I sure will.

2 UNDERTAKING NO. 4:

3 RE ADVISE WHY PATRICK TWINN IS A

4 BENEFICIARY OF THE 1986 TRUST.

5 Q MS. BONORA: So just focusing on the 1986 Trust  
6 now, okay, so not the 1985 Trust, not the Trust where  
7 there is an application for advice and direction in  
8 respect to the definition of beneficiary. So I'm just  
9 asking you to focus on the 1986 Trust.

10 A Well, I don't get how you are trying to get me to focus  
11 on the 1986 Trust when I just told you that I am not an  
12 expert on the 1985 Trust or the 1986 Trust. So how can  
13 you expect me to give you a full answer? You know, if  
14 you are going to ask me these questions I think that I  
15 would need to consult with my counsel and have a  
16 thorough understanding of the 1985 and 1986 Trusts.

17 Q You are welcome to do that. And I am just going to ask  
18 you the questions. If you don't know the answers and  
19 want to provide them by way of undertaking, I'm happy  
20 to have those answers by way of undertaking.

21 A Sure.

22 Q So in respect of the 1986 Trust you understand that  
23 your wife and daughter are entitled to benefits as your  
24 dependents?

25 A Okay, sure.

26 Q Is that a yes?

27 A Yes.



1 Q And you told me before that you reviewed the proposed  
2 distribution scheme for the 1985 Trust?

3 A I reviewed the proposed distribution arrangement which  
4 was filed in January of this past year.

5 Q Okay. And in that proposed distribution arrangement  
6 your wife and daughter would still be entitled to  
7 benefits as your dependents, correct?

8 A As my dependents, correct. But as I mentioned, if I  
9 die then what happens?

10 Q Do you know the answer to that?

11 A No, I don't.

12 Q Have you asked the Trust administrator that question?

13 A I have not.

14 Q Have you applied for life insurance as one of the  
15 benefits that is provided under the Trust?

16 A I believe I do have life insurance, but I am not sure.  
17 I would have to get back to you on that.

18 Q Is it your plan to apply for membership on behalf of  
19 your daughter?

20 A I would say at some point, yes, I will apply. I will  
21 have her apply for band membership, yeah.

22 Q In paragraph 11 of your Affidavit you say that your  
23 daughter is not a member, nor do you believe that she  
24 will ever be one under the current Sawridge Band  
25 leadership?

26 A M-hm.

27 Q Are you suggesting that under the current leadership

1       you believe that she would not become a member?

2    A    I am saying under the current membership process and  
3       rules, which are extremely inconsistent, lack the basic  
4       principals of fairness and due process, it is highly  
5       unlikely, that she will never be a band member.

6    Q    Do you understand that, and are you suggesting that  
7       that process and lacking due process is also applicable  
8       to the appeal to the electors?

9    A    I am not sure what you mean by that. Can you be more  
10       specific?

11   Q    Well, you understand that there is an appeal to the  
12       electors after the Chief and council make a decision  
13       about membership?

14   A    Yes.

15   Q    Are you suggesting that the appeal is also flawed?

16   A    I am not really here to talk about band membership, and  
17       I would have to look into that.

18   Q    Okay. So will you undertake to answer my question  
19       then?

20   A    Yes.

21   Q    About the electorate?

22   A    Sure.

23                   UNDERTAKING NO. 5:

24                   RE ADVISE IF PATRICK TWINN BELIEVES THE  
25                   APPEAL TO THE ELECTORS AFTER THE CHIEF  
26                   AND COUNCIL MAKE A DECISION ABOUT  
27                   MEMBERSHIP IS FLAWED.

1 Q MS. BONORA: But I would suggest, Mr. Twinn,  
2 that everything in your Affidavit is available for  
3 questioning today, and you have put band membership  
4 into your Affidavit several times. So I disagree with  
5 you that you are not here to talk about membership,  
6 because you have put membership in issue in your  
7 Affidavit.

8 Are you aware that after the appeal to the  
9 electorate that there is an appeal to the Federal  
10 Court?

11 A Didn't you already ask me this question?

12 Q Yes, I just want to pursue another part of the question  
13 with respect to something that you have just said.

14 A Well, as you informed me earlier, yes, I am aware.

15 Q Okay. And are you aware that issues of bias and  
16 unfairness can be raised in such an appeal to the  
17 Federal Court?

18 A Well, yes, I believe Canadians have rights and  
19 freedoms, yes.

20 Q So I am just going to ask you the question again  
21 because I don't think that your answer was an answer to  
22 my question. Are you aware that the issues that you  
23 have raised of bias and unfairness can be raised in an  
24 appeal to the Federal Court?

25 A I am now, yes. But that can be extremely costly.

26 Q When you say you are now, are you saying you only know  
27 it because of my questions?

1 A Well, you mentioned this earlier, yes.

2 Q So you didn't know that before today?

3 A That you could appeal to the Federal Court?

4 Q Yes.

5 A I did not, no.

6 Q And you are aware that your daughter, Aspen, is  
7 entitled to benefits under the Trust while she is under  
8 18, and for schooling until she is 25?

9 A Currently, yes, as long as I am alive.

10 Q And you told me before that you didn't know what  
11 happened after you died, correct? That you haven't  
12 made those inquiries?

13 A That would be correct, yes.

14 Q And so right now if we just talk about the benefits  
15 that you are aware of, you are aware that your daughter  
16 is entitled to benefits, correct?

17 A Currently, yes. But with this proposed variation to  
18 band membership she very well might not be.

19 Q So are you suggesting that the benefits under the 1986  
20 Trust -- so let's talk about the 1986 Trust.

21 A Okay, but I just told you I am not an expert in the  
22 1985 or 1986 Trust, so.

23 Q So let's talk about -- you can't give me an answer and  
24 then suggest that you aren't an expert. So I am  
25 pursuing your answer, right?

26 A Sure.

27 Q So are you aware that your daughter is entitled to

1       benefits through you as a member of the Sawridge First  
2       Nation under the 1986 Trust?

3     A    As a dependent, yes.

4     Q    Okay. And you have investigated those benefits that  
5       she is entitled to?

6     A    I have an idea, yes.

7     Q    So have you done some investigation?

8     A    I have done some investigation, but again, I'm not an  
9       expert on the current benefits that are in place.

10    Q    Okay. So in the proposed distribution scheme there was  
11       an outline of all of the benefits that are provided  
12       under the 1986 Trust because the proposed distribution  
13       scheme was that the 1985 Trust would provide the same  
14       benefits. So when you read that proposal you know that  
15       you read all of the benefits that were available,  
16       correct?

17   MS. SHANNON:               Counsel, you are asking him to  
18       interpret that court order. I'm confused with this  
19       question.

20   MS. BONORA:                Okay. I'm asking him what he read  
21       in the proposed distribution scheme, that is all.  
22       There wasn't an order about the proposed distribution  
23       scheme, it was adjourned.

24   MS. SHANNON:               Okay.

25   MS. BONORA:                I am simply asking him about what  
26       he read.

27   MS. SHANNON:               Okay.

1 A Okay, well I am not sure what you mean then.

2 Q MS. BONORA: So you told me that you read the  
3 proposed distribution scheme?

4 A The proposed distribution arrangement.

5 Q Okay. So you read the proposed distribution  
6 arrangement?

7 A Yes.

8 Q Okay. And so when you read that proposed distribution  
9 arrangement you are aware of the benefits that are  
10 provided under the 1986 Trust, correct?

11 A I am aware of some of the benefits, yes.

12 Q So I am asking you what you read. So did you only read  
13 part of the proposed distribution arrangement?

14 A No, I read it all, but I don't have it memorized word  
15 for word.

16 Q Okay. So do you recall in the proposed distribution  
17 arrangement that the benefits provided to minors was  
18 discussed with respect to the 1986 Trust?

19 A I am not sure what you mean.

20 Q Do you recall in reading the proposed distribution  
21 arrangement that the benefits for minors were  
22 discussed?

23 A I don't recall. I don't remember what it said word for  
24 word. As I mentioned I read it, I didn't study it.

25 Q Do you recall benefits being discussed at all in the  
26 proposed distribution arrangement?

27 A The thing that stood out for me in the proposed

1 distribution arrangement was the variation of the  
2 trusts of beneficiary status to band membership. That  
3 is what stood out to me.

4 Q Okay. So I am going to ask you the question again.  
5 The question is, do you recall reading anything about  
6 benefits in the proposed distribution arrangement?

7 A I perhaps recall some benefits in there.

8 Q Okay. And so you are not -- you are telling me today  
9 that you are not aware of the benefits that are  
10 available, all of the benefits that are available to  
11 your daughter or your wife from the 1986 Trust?

12 A I am aware of some of the benefits available through  
13 the trusts. I don't know whether they would stem from  
14 the 1985 or 1986 Trust, but I am aware of some of the  
15 benefits that could potentially be available to them as  
16 dependents, permitting that I am alive.

17 Q Okay. And we have already established that you don't  
18 actually know what happens after you die?

19 A Sure.

20 Q Is that correct?

21 A Sure.

22 Q Is that a yes?

23 A Yes.

24 Q But what my question is, you are aware of some  
25 benefits, you haven't made a full investigation of the  
26 benefits available to your wife and daughter?

27 A Yeah, sure, I haven't made a full investigation at this

1 point.

2 Q Okay. And is this the first step that you have taken  
3 in this litigation since you learned of the litigation?

4 A Filing my Affidavit?

5 Q Yes.

6 A I would say so, yes.

7 Q Okay. Now in paragraph 11 you say that you don't  
8 consent to the variation. Are you suggesting that the  
9 definition of beneficiaries from the 1985 Trust should  
10 stay as it is?

11 A No, that is not what I am saying.

12 Q Okay. So what are you saying?

13 A I am saying that I am opposed to the variation of the  
14 definition of beneficiary to band membership.

15 Q Okay. And so what should happen then, in your opinion,  
16 in respect of the definition of beneficiary?

17 A Well, I think that there needs to be more of an  
18 inclusive definition that is more consistent, better  
19 due process, and is more fair to everyone, not just to  
20 a select few.

21 Q So are you suggesting that the beneficiary definition  
22 in the 1985 Trust should change?

23 A I think that it could probably change and could be  
24 altered and reworded and perhaps then it would be a  
25 little more acceptable.

26 Q And what is your proposal for the change?

27 A Well, I don't have a proposal at this point. That



1       would have to be -- I would have to look at that with  
2       my counsel. I am not a lawyer. I don't think that I  
3       should be expected to have a definitive answer at this  
4       point. I just know that if we are going to change this  
5       definition to band membership, that is going to be  
6       extremely unfair, and it is going to not include a lot  
7       of people who have a right to beneficiary status.

8   Q    So you don't have a position now on how the beneficiary  
9       definition should change?

10  A    No, that is not what I am saying. I am saying that it  
11       -- varying this definition to band membership is not  
12       acceptable.

13  Q    I understand that. That wasn't my question. My  
14       question is, do you have a position now on how the  
15       definition of beneficiary should change in the 1985  
16       Trust?

17  A    I have an idea of what that definition should look  
18       like. Would I be able to give you that answer today?  
19       No.

20  Q    Will you be able to undertake to give me that answer?

21  A    Sure, I would have to consult with my counsel about  
22       that, though.

23  MS. SHANNON:                   We will give that upon --

24  MS. BONORA:                    Are you giving the undertaking?

25  MS. SHANNON:                   No, we will take that under  
26       advisement.

27  MS. BONORA:                    Okay.

1                   UNDERTAKING NO. 6: (UNDER ADVISEMENT)  
2                   RE ADVISE OF PATRICK TWINN'S POSITION ON  
3                   HOW THE DEFINITION OF BENEFICIARY SHOULD  
4                   CHANGE IN THE 1985 TRUST.

5    Q    MS. BONORA:               In paragraph 12 you say that your  
6           brothers do not consent. Are you representing them?

7    A    Well, I don't think that I am representing them, but I  
8           am looking out for their best interests. I think they  
9           could make their own statements if they wanted to.

10   Q    You have spoken to them?

11   A    About the variation, yes.

12   Q    But they have not made an application to be involved?

13   A    Well, I don't think so otherwise you would see an  
14           Affidavit from them in front of you.

15   Q    Have they made an application as far as you are aware?

16   A    In terms of?

17   Q    My question is really simple and I just need a yes or  
18           no. Are you aware that they have made an application?

19   A    I am not aware.

20   Q    Okay. And are they disabled in any way and unable to  
21           make any application?

22   A    No, they are not disabled. They are fully capable.

23   Q    Okay. When you say in paragraph 12 they don't consent  
24           on behalf of their present or future spouses and issue,  
25           what do you mean by "issue"?

26   A    Well, I mean that they don't consent with the proposed  
27           variation that is being proposed by trustees, the

1 chair, and the Trust administrator.

2 Q So are the chair and the Trust administrators party to  
3 this action?

4 A Well, they are part of the Trusts, yes. The chair  
5 would oversee the trustees and they are -- they should,  
6 in theory, be looking out for the best interests of the  
7 beneficiaries.

8 Q You think the chair and the administrator have that  
9 responsibility?

10 A To look out for the best interests of the  
11 beneficiaries?

12 Q Yes.

13 A Yeah, they should have that.

14 Q And are they parties to this action as far as you are  
15 aware?

16 A I am not sure what you mean.

17 Q Are they a party -- you are asking to be a party. So  
18 clearly you understand that concept.

19 A Yeah.

20 Q Are the chair and the administrator a party to the  
21 action?

22 A I am not sure.

23 Q Can you undertake to determine that?

24 A Sure.

25 MS. SHANNON: Counsel, he just answered your  
26 question. He will not undertake to provide you an  
27 answer to a question that he has already answered.

1 MS. BONORA: When an answer is "I am not sure",  
2 "I don't recall" or "I don't remember", I have the  
3 opportunity to ask for an undertaking. If he feels  
4 that he cannot give me that answer, he is welcome to  
5 say I can't answer it any further.

6 MS. SHANNON: We will take that under advisement.

7 MS. BONORA: Okay.

8 UNDERTAKING NO. 7: (UNDER ADVISEMENT)  
9 RE ADVISE IF PATRICK TWINN BELIEVES THE  
10 CHAIR AND ADMINISTRATOR ARE A PARTY TO  
11 THE ACTION.

12 Q MS. BONORA: Now we will get back to the  
13 original question that I asked you which led us off to  
14 that little tangent. And the question was, what do you  
15 mean by "issue"?

16 A Well, I just told you. They don't consent.

17 Q No, there is a very specific question I am asking you.

18 A M-hm.

19 Q Look at paragraph 12, you use this word. What do you  
20 mean by "issue"?

21 A Well, in terms of their future spouses or issues, I  
22 guess I could mean anything like their children that  
23 are not born yet.

24 Q In paragraph 13 you say that you are a descendant and  
25 listed member of the Sawridge First Nation. What does  
26 it mean to be a descendant of the Sawridge First  
27 Nation?

1 A Well, it means that my family, my father was a band  
2 member of the Sawridge First Nation, and my mother was  
3 a listed band member.

4 Q So you are a descendant of your parents?

5 A Who are members of the Sawridge First Nation.

6 Q Are you a descendant of your parents?

7 A I would say so, yes.

8 Q And you say in paragraph 13 you are directly affected  
9 by the advice and direction application being brought  
10 forward involving the 1985 Trust. Do you see that?

11 A Yes.

12 Q So you will agree with me that you will be a  
13 beneficiary of the Trust if the definition is amended?

14 A I would currently, yes, I would agree. However, things  
15 can change.

16 Q Are you a beneficiary of the 1985 Trust currently?

17 A Currently I am a member -- I am a beneficiary of the  
18 1985 Trust.

19 Q Will you be a beneficiary of the 1985 Trust if the  
20 definition is amended to members?

21 A I don't know.

22 Q Are you a member of the Sawridge First Nation?

23 A I currently am, yes.

24 Q If you are a member of the Sawridge First Nation and  
25 the definition is amended to members, you don't know  
26 whether you will be a beneficiary?

27 A Well, under the current leadership, yes.

1 Q Do you believe -- so if the definition is changed to  
2 members will you be a beneficiary of the Trust?

3 A As it stands today I would be.

4 Q Okay. In paragraph 14 you say that Chief and council  
5 can revoke membership.

6 A Yeah.

7 Q What is the source of your information for that?

8 A I am not sure what you really mean there.

9 Q Where did you get the information that Chief and  
10 counsel can revoke membership?

11 A Well, they have ultimate power.

12 Q You are saying that they just simply have power as  
13 Chief and counsel to revoke membership?

14 A Yeah.

15 Q Okay. And are you aware of any membership being  
16 revoked for any person in the Sawridge First Nation?

17 A Not to my recollection, but I believe it has happened  
18 in other First Nation communities.

19 Q So your answer is you have never heard of it happening  
20 at Sawridge First Nation?

21 A But I have heard of it happening in other First  
22 Nations.

23 Q So can you just answer my question? Have you heard it  
24 happening at Sawridge First Nation?

25 A Up to today, no.

26 Q And you believe that the absolute discretion with  
27 respect to accepting, rejecting or revoking membership

1 is in Chief and council?

2 A Currently, yes.

3 Q And we talked about the appeal process?

4 A M-hm.

5 Q Are you suggesting that despite the appeal process  
6 there still is absolute discretion in Chief and  
7 council?

8 A What do you mean by "absolute discretion"?

9 Q I have used your language from your Affidavit.

10 A Okay, then I am not sure.

11 Q What are you not sure about?

12 A I'm not sure of your question.

13 Q Do the Chief and counsel have absolute discretion with  
14 respect to accepting, rejecting and revoking  
15 membership?

16 A I believe so, yes.

17 Q And you are saying that you believe that even though we  
18 have talked about the appeal to the electorate and the  
19 appeal to the Federal Court?

20 A That is correct.

21 Q Paragraph 15 you talk about concerns about the  
22 administration of the Trust. I'm going to ask you how  
23 that is relevant to your application.

24 A How is that relevant?

25 Q Yes.

26 A Well, the Trust should be looking out for the best  
27 interests of the beneficiaries.

1 Q How is that relevant to your application to become a  
2 party?

3 A Well, if the variation of the Trust is changed to band  
4 membership it is going to have a huge impact on people  
5 like my daughter.

6 Q So let me ask you the question again. You have sworn  
7 that you have concerns about the administration of the  
8 Trust?

9 A M-hm.

10 Q I am asking you how you think that that is relevant to  
11 you being added as a party to this action.

12 A Okay, well I am not sure what you mean then.

13 Q You don't understand my question?

14 A No.

15 Q Is it you don't understand it or you are refusing to  
16 answer my question?

17 A I don't understand what you are trying to get at.

18 Q How does this statement in your Affidavit have any  
19 relevance to you being added as a party? It is  
20 possible, Mr. Twinn, that it has no relevance.

21 A I'm sorry?

22 Q It is possible, Mr. Twinn, that it has no relevance.  
23 That is a possible answer for you.

24 A I didn't say that.

25 Q I am helping you to try and understand my question and  
26 to help you with the answer to that question.

27 A Okay, well I am not sure.



1 Q You don't know how it is relevant?

2 A I am not sure.

3 Q Do you know who the trustees of the Trust are at this  
4 point?

5 A I do.

6 Q And when you say that you believe that there is a  
7 conflict of interest between the duties of the Sawridge  
8 trustees who were or are elected band officials, tell  
9 me which of the trustees are band officials?

10 A Chief Roland Twinn is currently -- well, he is the  
11 Chief of the Sawridge First Nation, so he is an elected  
12 band official.

13 Q Right. Are there any others?

14 A Justin Twin used to be a councillor.

15 Q Right. Is he currently a councillor?

16 A No.

17 Q Okay. Are there any other elected officials who are  
18 trustees?

19 A I am not sure if Bertha is still part of the elders  
20 committee or not. I would have to look into that.

21 Q Will you undertake to do that?

22 A I sure will.

23 UNDERTAKING NO. 8:

24 RE ADVISE IF BERTHA IS STILL PART OF THE  
25 ELDERS COMMITTEE.

26 Q MS. BONORA: So at this point other than Bertha,  
27 the only elected official would be the Chief?

1 A To my knowledge, yes. But again, I would have to look  
2 into that because there is committees that come and go.

3 Q Okay. So you will undertake to do that for me?

4 A Sure.

5 UNDERTAKING NO. 9:

6 RE CONFIRM THAT AT THIS POINT OTHER THAN  
7 BERTHA, THE ONLY ELECTED OFFICIAL WOULD  
8 BE THE CHIEF.

9 Q MS. BONORA: And are you aware that the Chief  
10 has always been a trustee since the creation of the  
11 Trust?

12 A I have not.

13 Q Okay. Do you know that your father was a trustee from  
14 the time that he created the Trust until his death?

15 A I am aware that he was a trustee, yes.

16 Q Okay. And he was a trustee while he was the Chief?

17 A Sure.

18 Q Is that a yes?

19 A I believe so, yeah.

20 Q And are you aware that when Bertha was the Chief she  
21 was also a trustee?

22 A No.

23 Q And are you aware that -- obviously you know that  
24 Roland was Chief and is a trustee?

25 A I know that Roland is the Chief and I know that he is  
26 currently a trustee.

27 Q Are you aware that your father appointed a number of

1       elected officials as trustees during the time that he  
2       was a trustee of the 1985 and 1986 Trust?

3    A    I was not, no.

4    Q    When you say in the last sentence of paragraph 15, "I  
5       believe this does not happen when the Chief is a  
6       trustee and the majority of trustees are or were  
7       elected band officials as is the case here." Do you  
8       believe that statement is true?

9    A    Yes, I do.

10   Q    Even though you are not aware of whether -- let's deal  
11       with the majority of trustees. Today, are the majority  
12       of trustees elected officials?

13   A    I just told you that I would have to look into that and  
14       get back to you.

15   Q    So you will undertake to determine if today a majority  
16       of the trustees are elected band officials?

17   A    I will.

18   MS. SHANNON:                    I thought we already had that  
19       undertaking.

20   MS. BONORA:                    I don't think that we dealt with  
21       the majority of the trustees.

22                                    UNDERTAKING NO. 10:

23                                    RE ADVISE IF CURRENTLY A MAJORITY OF THE  
24                                    TRUSTEES ARE ELECTED BAND OFFICIALS.

25   Q    MS. BONORA:                You say in paragraph 15 that you  
26       are aware that other First Nation Trusts prohibit  
27       elected band officials, employees and agents to act as

1 trustees to avoid conflict of interest and ensure an  
2 equality among the trustees. Do you see that?

3 A I do.

4 Q What other First Nations?

5 A Off the top of my head I believe Samson is one, I  
6 believe Ermineskin is another one.

7 Q Are you aware that there are a number of First Nation  
8 Trusts that have elected band officials as trustees?

9 A I am sure that there are.

10 Q This is taking a lot longer. I think we should take a  
11 break.

12 Mr. Twinn, perhaps your counsel has already told  
13 you, you are not allowed to talk to anyone about your  
14 evidence during the break?

15 A I'm aware.

16 Q And then we will come back and you will still be under  
17 oath.

18 (Questioning adjourned 12:00 p.m.)

19 (Questioning resumed 12:45 p.m.)

20 Q MS. BONORA: Mr. Twinn, you acknowledge that you  
21 are still under oath?

22 A I do.

23 Q And did you have any discussions about your evidence  
24 over the lunch hour with anyone?

25 A No.

26 Q Very good. Now in respect of drafting this Affidavit,  
27 did you have any assistance in drafting this Affidavit?

1 A This -- yes, I did. This was done in part with my law  
2 firm.

3 Q And did you have assistance from anyone other than your  
4 law firm in drafting the Affidavit?

5 A Not to my knowledge, no.

6 Q You didn't have assistance from your mom, Catherine  
7 Twinn?

8 A To my knowledge, no.

9 Q What does that mean, not to your knowledge?

10 A Well, this was done up by Nancy Golding, and she sent  
11 it to me and I read over it.

12 Q You gave her the information directly and then she  
13 drafted it?

14 A No. The information was provided to her.

15 Q And who provided her the information?

16 A I'm not sure.

17 MS. SHANNON: That, counsel, is privileged  
18 information.

19 MS. BONORA: Your objection to that is on the  
20 record.

21 MS. SHANNON: Yes.

22 Q MS. BONORA: Thanks. And you read the Affidavit  
23 before you signed it?

24 A Yeah.

25 Q Okay. And in respect of this whole question around the  
26 conflict of interest with respect to the trustees, when  
27 you read that paragraph did you do any investigation

1       about who the elected officials were before you swore  
2       the Affidavit?

3     A    Well, I knew -- I know who the trustees are, and I know  
4       who some of the elected officials are, yes.

5     Q    But you didn't -- that was it, you just knew it, you  
6       didn't do any other investigation?

7     A    No.

8     Q    Okay. And were you aware of a decision of the court in  
9       this action in December of 2015 issued by Justice  
10      Thomas?

11    A    I was aware there was -- that he requested a proposal  
12      from the trustees.

13    Q    Okay, I'm going to ask you the question again. Were  
14      you aware that there was a decision rendered by Justice  
15      Thomas in December of 2015 in this action?

16    A    No.

17    Q    And how did you learn about a requirement to do a  
18      distribution proposal?

19    A    Well, I saw the distribution arrangement which was  
20      filed in January, I believe.

21    Q    And how did you see that?

22    A    Well, it is -- I got that from my mother.

23    Q    Okay. So you haven't read the decision of Justice  
24      Thomas from December of 2015?

25    A    I haven't read the decision, no. No, but I know that  
26      he requested a proposal from the trustees.

27    Q    So I don't want to talk about the proposal. I am happy

1           for you to give me your answers as you choose them, but  
2           that isn't the question that I asked you.

3    A    Okay.

4    Q    I just asked about the decision.

5    A    Okay. So can you ask me the question again, please?

6    Q    Sure. So have you read that decision?

7    A    No.

8    Q    Have you made your counsel aware of that decision?

9    A    No.

10   Q    And you say in paragraph 15 that you believe a trustee  
11           must represent all beneficiaries past, present, and  
12           future. What do you mean by the trustees representing  
13           the past beneficiaries?

14   A    Well, beneficiaries who may have passed away and left  
15           children.

16   Q    So you are saying that the trustees have to represent  
17           deceased beneficiaries?

18   A    Well, their interests, yeah.

19   Q    The interests of deceased beneficiaries?

20   A    So in there is deceased beneficiaries, their interests,  
21           yes. So if they had kids, for example.

22   Q    Okay. So you are saying that that really is an issue  
23           of representing -- the trustees have to represent the  
24           children of deceased beneficiaries?

25   A    Sorry, I'm not sure what you mean by that question.  
26           Can you please rephrase it?

27   Q    Well, you told me that your reference to past

1 beneficiaries was to deceased beneficiaries who might  
2 have children.

3 A So that could be one example, yes.

4 Q So one example is that the deceased beneficiaries, the  
5 trustees have to pay attention to the children of  
6 deceased beneficiaries?

7 A That could be one example, yes.

8 Q So is there something else that you mean by past  
9 beneficiaries?

10 A I am not sure.

11 Q It is your word in this Affidavit.

12 A Okay. And I am not sure.

13 Q You are not sure if you meant anything else by it?

14 A Well, I would have to really think about that, yeah.

15 Q Do you want to think about it and provide me with an  
16 answer?

17 A If you are requesting that.

18 Q Yes, I am.

19 A Sure.

20 MS. SHANNON: What exactly are you requesting  
21 with that undertaking?

22 MS. BONORA: I am asking him if he meant  
23 anything else in respect of past beneficiaries other  
24 than deceased beneficiaries.

25 MS. SHANNON: Thank you.

26 UNDERTAKING NO. 11:

27 RE ADVISE IF PATRICK TWINN MEANT



1 ANYTHING ELSE IN RESPECT OF PAST  
2 BENEFICIARIES IN PARAGRAPH 15 OF HIS  
3 AFFIDAVIT, OTHER THAN DECEASED  
4 BENEFICIARIES.

5 Q MS. BONORA: And when you say that you believe  
6 the trustee must represent all beneficiaries, not just  
7 their political constituency, what do you mean by that?

8 A They need to look out for the best interests of all of  
9 the beneficiaries, not just a select few.

10 Q So political constituency means a select few?

11 A Yes.

12 Q A select few of what?

13 A Of beneficiaries.

14 Q And are you suggesting that the trustees are doing that  
15 now?

16 A I'm not saying that they are, and I am not saying that  
17 they are not.

18 Q Well, if you are not saying that they are not, then you  
19 must be saying that they are?

20 A Well, that is kind of putting words in my mouth, so.

21 Q Can you give an example of a trustee just representing  
22 their political constituencies?

23 A Well, four of the trustees -- not four, but the  
24 trustees are proposing to amend the definition and vary  
25 the definition to band membership. So right there that  
26 excludes certain beneficiaries.

27 Q And you are saying the exclusion of the beneficiaries

1 is representing their political constituency?

2 A Yes.

3 Q Okay. Have you ever been told that the December 2015  
4 decision of the court suggested that membership should  
5 not be an issue in this litigation?

6 A Have I been informed?

7 Q Yes.

8 A No.

9 Q Have you been informed that conflict is also a subject  
10 that should not be involved in this litigation?

11 A What do you mean by conflicts?

12 Q The conflicts that you have described in --

13 A So conflicts of interest?

14 Q Yes.

15 A Okay. And the question was again?

16 Q Have you been advised that the court has determined in  
17 its December 2015 decision that conflict of interest  
18 should not be discussed in this litigation?

19 A No.

20 Q Did you review any of the documents filed in court or  
21 filed on the web site before you swore this Affidavit?

22 A Not before I swore it, no. Afterwards.

23 Q And after you reviewed those documents did you make any  
24 changes to your Affidavit?

25 A No.

26 Q Have you ever opposed the appointment of trustees for  
27 the Trust?

1 A Specifically, no, I have never opposed it, no.

2 Q You have been aware of who the trustees have been over  
3 time?

4 A I know who the trustees currently are. I am aware of  
5 some of the trustees that have been appointed in the  
6 past.

7 Q In paragraph 16 you say you don't believe appropriate  
8 steps have been taken to properly ascertain all of the  
9 persons who are beneficiaries of the 1985 Trust. Are  
10 you aware of the steps that were taken to advertise for  
11 potential beneficiaries of the 1985 Trust?

12 A No.

13 Q Are you aware of any steps taken by the trustees to  
14 ascertain the beneficiaries?

15 A No.

16 Q Did you review any of the procedural orders that  
17 occurred in 2011 and 2012 that dealt with  
18 identification of persons who might be interested in  
19 this litigation?

20 A No.

21 Q You say, "I and the other 1985 beneficiaries that I  
22 know of have not been consulted by the trustees to  
23 grandfather us and our issue."

24 Do you need to be grandfathered?

25 A I would not, no.

26 Q And what does it mean to "grandfather our issue"?

27 A I would say to address our issue of the proposed

1 variation.

2 Q Are you aware that the trustees made a proposal to  
3 grandfather minors and that was rejected by the Office  
4 of the Public Guardian and Trustee?

5 A I was aware of a list that was brought forward of some  
6 individuals who would be grandfathered.

7 Q And are you aware that that was opposed by the Office  
8 of the Public Guardian and Trustee?

9 A No.

10 Q And are you aware that Catherine Twinn also opposed the  
11 grandfathering of minors?

12 A I was aware of that, yes.

13 Q Paragraph 16 it says you have not been asked to consent  
14 to substituting the existing beneficiary definition  
15 with band membership. Do you see that?

16 A Yeah.

17 Q You were aware of the litigation, correct?

18 A M-hm, yeah.

19 Q You could have participated in the litigation, correct?

20 A Sure.

21 Q And this is the first step that you have taken?

22 A This is the first step, yeah.

23 Q And has someone told you that your consent is required  
24 to the variation?

25 A Yes, my mother has told me that. And I have also read  
26 the Trustee Act which states that -- it says something  
27 along the lines of if a variation is going to take

1 place written consent must be obtained from all  
2 beneficiaries who are capable of doing so. And no one  
3 has notified me or asked for my consent. And this is  
4 what I am opposed to.

5 Q In paragraph 17 you say you believe that vested  
6 beneficiaries are being excluded from Sawridge Band  
7 membership. So tell me what a vested beneficiary is?

8 A I would say it would be like -- it could be a current  
9 beneficiary such as myself, and that could directly  
10 translate to someone like my daughter, Aspen.

11 Q So vested means current to you?

12 A No, vested could mean a variety of different things.

13 Q So what does that mean to you? I am asking you that  
14 question. What are the variety of things that vested  
15 means you to?

16 A Well, as I mentioned one of them could be people like  
17 my daughter.

18 Q So vested means someone who is a child of a member? Is  
19 that right?

20 A Or a beneficiary, yes.

21 Q A child of a beneficiary. That could be vested?

22 A That could be one, yes.

23 Q Okay. And anything else?

24 A Not off the top of my head, no.

25 Q So when you read this Affidavit and you signed it you  
26 believed that vested meant you and your daughter?

27 A No, not just myself and my daughter. That is just one

1 example.

2 Q Well, I am asking you what you meant by vested when you  
3 swore this Affidavit. So that is one example. So tell  
4 me if there are any other examples.

5 A Someone like Melissa, my wife.

6 Q She would be a vested beneficiary?

7 A Well, to me she has a right to be a beneficiary.

8 Q Okay. So she is one example of a vested beneficiary?

9 A Sure.

10 Q Okay. Is there anything else?

11 A Not at this time, no.

12 Q And then if those are the vested beneficiaries who are  
13 the potential beneficiaries?

14 A Those would be any sort of future beneficiaries such as  
15 Aspen or Melissa, or someone like Shelby Twinn or  
16 Deborah Serafinchon.

17 Q Sorry, so you told me Melissa was a vested beneficiary,  
18 right?

19 A M-hm.

20 Q So is that -- so you are saying vested and potential  
21 are the same?

22 A Not necessarily, no.

23 Q Okay. How are they different?

24 A I am not sure.

25 Q Well, these are your words.

26 A M-hm.

27 Q So you are saying today you don't know what those words

1 mean?

2 A No, I understand what they mean. People, you know,  
3 vested beneficiaries would be beneficiaries with  
4 interest.

5 Q And so Melissa is a person with an interest and your  
6 daughter is a person with an interest?

7 A Well, they are potential beneficiaries. I would be a  
8 vested beneficiary.

9 Q You are a vested because why?

10 A Sorry?

11 Q Why are you vested?

12 A Well, because I could be essentially excluded from band  
13 membership if this proposed variation moves forward.

14 Q You could be excluded from band membership if this  
15 application moves forward. Are those your words?

16 A I could -- things can change, okay. I am not a lawyer.

17 Q Okay. So let's just examine your words.

18 A Sure.

19 Q You could be excluded from membership if this  
20 application moves forward?

21 A Down the road you never know what can happen.

22 Q If this application moves forward, this application,  
23 you mean this 1103 action?

24 A No, my application.

25 Q If your application to be a party moves forward you  
26 could be excluded from membership?

27 A Maybe, I don't know.

1 Q But is that your answer? You are saying if your  
2 application for being a party moves forward you could  
3 be excluded from membership?

4 A Potentially. Anything can happen.

5 Q Is that your answer, that is what I am asking you?

6 A Potentially anything can happen and that is my answer.

7 Q Your answer is that you are putting your membership at  
8 risk by moving this application to be a party to this  
9 forward. That is what you believe?

10 A I think my band membership could be at risk, yeah.

11 Q And in respect of, you believe that the vested and  
12 potential beneficiaries are being excluded from  
13 Sawridge Band membership as a result of personal  
14 animosities, so you believe that these vested and  
15 potential beneficiaries are being excluded from  
16 Sawridge Band membership. But you told me that you are  
17 a vested beneficiary. You are not being excluded from  
18 band membership, correct?

19 A Not today, no.

20 Q Will you ever be excluded from band membership? You  
21 might be revoked. You told me your band membership  
22 might be revoked, but you will never be excluded from  
23 band membership, correct?

24 A Sure.

25 Q Is that correct?

26 A I am not sure what you mean.

27 Q So you are having trouble with my question?



1 A I am having trouble with the way that you are putting  
2 words in my mouth and the way that you are phrasing the  
3 questions.

4 Q I am just trying to use the words that you used in your  
5 Affidavit, right?

6 A Okay.

7 Q So we read the sentence from your Affidavit. I will  
8 read it again to you. "Further I believe that vested  
9 and potential beneficiaries are being excluded from  
10 Sawridge Band membership as a result of personal  
11 animosities." Correct? You said that in your  
12 Affidavit?

13 A M-hm.

14 Q Then you told me that you were a vested beneficiary,  
15 correct?

16 A Perhaps, yeah.

17 Q Are you changing your answer? Are you not a vested  
18 beneficiary?

19 A Well, I'm not sure.

20 Q Now you aren't sure what vested means?

21 A In this context I am going to have to think about it.

22 Q You gave me answers before about vested. Are you  
23 saying those answers are incorrect now?

24 A I am not sure.

25 Q Well, are they correct or are they incorrect?

26 A I'm not sure.

27 Q You swore under --

1 A Exactly, that is why I am telling you I am not sure.

2 Q So you are telling me now that the answers that you  
3 gave before where you were very certain about who was  
4 vested, now you are unsure of those answers?

5 A I'm going to have to consult with my counsel and get  
6 back to you on that.

7 Q No, I'm asking you a question and I want an answer. It  
8 is not hard. You gave me answers under oath.

9 A M-hm.

10 Q And now you are telling me that you are unsure of those  
11 answers?

12 A No, I am -- I believe that I would be a vested  
13 beneficiary.

14 Q Okay. So you believe that you are a vested  
15 beneficiary. So now let's go back. You believe that  
16 the vested -- let's just deal with vested  
17 beneficiaries. "I believe that the vested  
18 beneficiaries are being excluded from Sawridge Band  
19 membership as a result of personal animosity."

20 Is that a correct statement? You are being  
21 excluded from Sawridge Band membership as a result of  
22 personal animosities?

23 A I am being excluded? I am not being excluded today.

24 Q Okay. And are there any other vested beneficiaries  
25 that you are aware of that are being excluded from  
26 Sawridge Band membership as a result of personal  
27 animosities?

1 A Well, I know people like -- there is other people that  
2 have applied to the band and have been rejected.

3 Q We are talking about vested beneficiaries, right?

4 A M-hm.

5 Q So I asked you are there any other vested  
6 beneficiaries?

7 A I don't know.

8 Q Are there any other vested beneficiaries that are being  
9 excluded from Sawridge Band membership?

10 A I am not sure.

11 Q So when you said this statement, "Further, I believe  
12 that vested beneficiaries are being excluded from  
13 Sawridge Band membership", you don't, in fact, know of  
14 anyone that that is true of; is that correct?

15 A No.

16 Q It is true that you know no one who has been excluded  
17 who is a vested beneficiary?

18 A Well, Shelby is being excluded.

19 Q Has she applied for band membership?

20 A No, she has -- I'm not sure if she has. I don't think  
21 so.

22 Q So you are saying today that you believe that she is  
23 being excluded from band membership?

24 A Well, she hasn't applied for band membership to my  
25 knowledge.

26 Q All right. So is she being excluded from band  
27 membership?

1 A Not at this point, then no.

2 Q So are there any other vested beneficiaries that are  
3 being excluded from Sawridge Band membership?

4 A I don't know.

5 Q You don't know of any, do you?

6 A No.

7 Q And do you know of any potential beneficiaries that are  
8 being excluded from band membership?

9 A That would be excluded from band membership? Well, I  
10 know people like Gina McDonald and Gail McConnell have  
11 applied.

12 Q And what was the results of their application?

13 A They were denied.

14 Q And you are saying they are potential beneficiaries?

15 A Yeah.

16 Q And what do you mean by a potential beneficiary?

17 A That they are -- they have a right to be a beneficiary.

18 Q So why are they a potential then?

19 A Because they are currently not a beneficiary.

20 Q So people who are not a beneficiary are applying for  
21 band membership?

22 A I am not saying that, no. I'm saying people -- there is  
23 people who have a right to be a beneficiary,  
24 potentially are not beneficiaries.

25 Q So I am trying to understand that, because I would say  
26 to you that people are either a beneficiary or not a  
27 beneficiary. So when you say they are a potential

1 beneficiary I am having trouble understanding that.

2 I'm trying to understand your words in your Affidavit.

3 A Okay.

4 Q What is a potential beneficiary?

5 A A potential beneficiary would be someone who could be a  
6 beneficiary but is currently not.

7 Q Okay. And your example of somebody who could be a  
8 beneficiary but currently is not is who?

9 A Shelby Twinn is one.

10 Q You are suggesting that she is not a beneficiary  
11 currently of the 1985 Trust?

12 A She is currently not a beneficiary, to my knowledge.

13 Q Okay. And are there other potential beneficiaries?  
14 People who are not beneficiaries of the 1985 Trust as  
15 far as you know?

16 A Yeah, I believe there are some.

17 Q And who did you have in mind when you drafted this  
18 Affidavit?

19 A My daughter.

20 Q So you are saying that she is not a beneficiary of the  
21 1985 Trust?

22 A No, she is -- I'm not saying that. I am saying that  
23 she is a potential beneficiary who could be excluded  
24 from band membership.

25 Q Right. So you just told me that potential  
26 beneficiaries mean people who are not beneficiaries,  
27 right?

1 A Yeah.

2 Q So you are saying now your daughter is not a  
3 beneficiary of the 1985 Trust?

4 A No, I am saying that she is a potential beneficiary and  
5 she could be excluded from band membership.

6 Q So let's just not deal with the issue of she could  
7 potentially be excluded from band membership. I just  
8 want to understand what you understand about your  
9 daughter, right?

10 A Okay.

11 Q So let's agree, you agree that potential beneficiaries  
12 are people who are not beneficiaries of the 1985 Trust?

13 A Who are not beneficiaries, yeah.

14 Q And so you are telling me right now that your daughter  
15 is not a beneficiary of the 1985 Trust?

16 A I am not saying that, no. I don't know which category  
17 she would fall in. Again, I'm not a lawyer. I don't  
18 know the ins and outs of the Indian Act, or I don't  
19 have an in-depth knowledge of the 1985 Trust or the  
20 1986 Trust.

21 Q In paragraph 11 of your Affidavit you say, "My newborn  
22 daughter, Aspen Saya Twinn, is the youngest beneficiary  
23 of the 1985 Trust." Are you changing your answer about  
24 that?

25 A No. It is Aspen Saya.

26 Q So in paragraph 11 you told me she is the youngest  
27 beneficiary. Now when we are talking about paragraph

1       17 you are saying that you don't know if she is a  
2       beneficiary?

3    A    No, I am not saying that. I am saying she is not a  
4       band member.

5    Q    So she is a beneficiary?

6    A    Sure, yes.

7    Q    Okay. So when we go back to potential beneficiaries  
8       you told me are people who are not beneficiaries, that  
9       doesn't include your daughter, correct?

10   A    Sure.

11   Q    Correct?

12   A    Correct.

13   Q    Yes?

14   A    Yes.

15   Q    And so then now let's go back to who are the potential  
16       beneficiaries.

17   A    I am not sure.

18   Q    You don't know what you meant when you swore this  
19       Affidavit, when you wrote potential beneficiaries?

20   A    I am not sure.

21   Q    Do you know what you wrote and what you meant by  
22       potential beneficiaries when you swore this Affidavit?

23   A    Yes, I had an idea.

24   Q    And what was it?

25   A    Potential beneficiaries are being excluded from band  
26       membership.

27   Q    No, I understand that you want me to go to the rest of

1 the sentence, but I just want to focus on those two  
2 words because these are your words and I want to  
3 understand what you mean by potential beneficiaries.  
4 That is my question to you. So who do you mean by  
5 potential beneficiaries?

6 A Well, I am not sure.

7 Q So you didn't understand these words when you swore  
8 your Affidavit?

9 A Sure.

10 Q Is that correct? You did not understand those words?

11 A Not fully, no.

12 Q So then we can't really understand who is being  
13 excluded from Sawridge Band membership as a result of  
14 personal animosities, can we, since you don't know who  
15 potential beneficiaries are?

16 A I am not sure what you mean.

17 Q Okay. Well, now we have determined that you don't know  
18 who potential beneficiaries are, correct?

19 A Okay.

20 Q And, therefore, when you say potential beneficiaries  
21 are being excluded from Sawridge Band membership as a  
22 result of personal animosities, you don't know who the  
23 potential beneficiaries are, you certainly can not say  
24 that the potential beneficiaries are being excluded,  
25 can you?

26 A They would be excluded if this variation moves forward,  
27 yes.



1 Q Who are they?

2 A Well, my daughter is currently not a band member. So  
3 if this variation changes to band membership she may  
4 never be a beneficiary.

5 Q Okay, let's go back to potential beneficiaries. Is  
6 your daughter a potential beneficiary?

7 MS. SHANNON: Counsel, I think we have asked the  
8 same question now a number of times and he has answered  
9 it.

10 MS. BONORA: He has not answered the question.  
11 So you are welcome to object and we can go to court  
12 over it, but he is now trying to get away from the fact  
13 that he has sworn to something that just simply doesn't  
14 exist and isn't true. And I am going to continue to  
15 pursue it, either now or at a further application, so.

16 MS. SHANNON: My objection can stand on the  
17 record then.

18 MS. BONORA: So you are saying no more questions  
19 on this potential beneficiary issue?

20 MS. SHANNON: I think you have asked the question  
21 and he has answered the question.

22 MS. BONORA: I don't think he has at all.

23 MS. SHANNON: The transcript will speak for  
24 itself.

25 MS. BONORA: Yes, it certainly will. We will  
26 move on.

27 Q MS. BONORA: And so you say, "and others are

1       being accepted based on their personal relationships  
2       with some of the Sawridge trustees." Who are "and  
3       others"? Is that referring to vested and potential  
4       beneficiaries?

5   A   Well, others that are being accepted would be band  
6       members that have been admitted into band membership.

7   Q   Sorry, so you are saying when you say others there, you  
8       are not referring back to vested and potential  
9       beneficiaries. You are just saying that there is  
10      people out there?

11  A   I am not sure.

12  Q   This is your Affidavit?

13  A   M-hm.

14  Q   So when you swore this Affidavit and you read these  
15      words, you didn't know what they meant and who they  
16      were referring to?

17  A   No, I knew what they meant but I feel like, you know,  
18      you have put words into my mouth and now I am really  
19      confused.

20  Q   Okay. Well, I'm not putting any words in your mouth,  
21      although that is exactly what cross-examination is  
22      about, but let me ask you this. I'm asking you the  
23      very simple question about who you meant by others?

24       My first question was, is others a reference to  
25      these vested and potential beneficiaries? Is it?

26  A   I am not sure.

27  Q   So this is your Affidavit, right? So the question

1 really should be answered yes or no because it is your  
2 Affidavit. I am not finding something outside of this  
3 Affidavit. I am asking you about your Affidavit. What  
4 you mean by others, does it refer to vested and  
5 potential beneficiaries?

6 A Can you please rephrase that question and, you know,  
7 make it easy for me to understand, because I find that  
8 you are being very condescending and disrespectful.

9 Q I don't intend to be condescending and disrespectful.

10 A Well, you are.

11 Q All right, Mr. Twinn. I'm just trying to get you to  
12 answer the question. And I think that you are being  
13 very evasive in the answers. So I will ask you the  
14 question again as simply as I can.

15 A Okay.

16 Q Let's just move on. I'm asking you about the words  
17 "and others" in paragraph 17 of your Affidavit. These  
18 are your words. I am asking you what you mean by them.

19 My first question is, when you say "and that  
20 others", are you referring to the first part of your  
21 sentence that says these are vested and potential  
22 beneficiaries?

23 A Yes.

24 Q We will leave it at that. And you then know of people  
25 who have been accepted based on their personal  
26 relationships with the Sawridge trustees?

27 A Into -- as a beneficiary?

1 Q Well, your sentence says they have been accepted into  
2 band membership.

3 A Yeah.

4 Q Based on their personal relationships with the Sawridge  
5 trustees?

6 A Yeah.

7 Q And so are you suggesting that personal relationships  
8 with the Sawridge trustees allowed them membership into  
9 the band?

10 A Well, some of -- there is elected officials that sit on  
11 the Board of Trustees.

12 Q So is it their relationship with the trustees that gets  
13 them into membership?

14 A Well, when you have elected officials who sit on the  
15 Board of Trustees, yes.

16 Q So is it their relationship with the elected official  
17 or their relationship with the trustee?

18 A It would be with the elected official.

19 Q In fact when you say it is based on their personal  
20 relationship with Sawridge trustees, you actually meant  
21 with elected officials?

22 A Well, there is elected officials that sit on the Board  
23 of Trustees.

24 Q Right. But we just determined that it is the  
25 relationship with the elected official that gets them,  
26 you say, into band membership?

27 A Yes.

1 Q Okay. So it is not their relationship with the  
2 trustees. Do you understand the difference?

3 A I do, yeah.

4 Q Okay.

5 A But we have elected officials that sit on the Board of  
6 Trustees.

7 Q I will leave it at that. Mr. Twinn, did you receive a  
8 letter from the Trust in 2011 notifying you of the  
9 court action?

10 A No.

11 Q And giving you an opportunity to file an Affidavit?

12 A No.

13 Q Can you undertake to look through your records and see  
14 if you, in fact, got a letter in 2011?

15 A Sure.

16 MS. SHANNON: We will take that under advisement.

17 MS. BONORA: Okay. Is there some reason that  
18 determining when he received notice of the application  
19 would be something that isn't relevant?

20 MS. SHANNON: I don't think that that was the  
21 question that you asked. You asked if he received the  
22 letter and he responded to you no. And then you said  
23 can you go back and look. He already gave you an  
24 answer no, he hasn't. So we will take it under  
25 advisement.

26 MS. BONORA: Okay.

27 UNDERTAKING NO. 12: (UNDER ADVISEMENT)

1 RE REVIEW RECORDS AND ADVISE IF PATRICK  
2 TWINN RECEIVED A LETTER FROM THE TRUST  
3 IN 2011 NOTIFYING HIM OF A COURT ACTION.

4 Q MS. BONORA: In respect of your request for an  
5 accounting, you understand that Mr. Bujold has advised  
6 that an accounting will, in fact, be provided at some  
7 time in the future. Do you understand that?

8 A Well, he denied my request.

9 Q Did he outright deny your request?

10 A I would have to double-check the email, but I believe  
11 so.

12 Q Well, I think the email is attached to your Affidavit.

13 A Okay, great. So he says "Patrick, unfortunately at  
14 this time we are unable to address your request."

15 Q Right. So do you believe that that is an outright  
16 denial of your request?

17 A Well, he says at this time.

18 Q Right.

19 A But it was still denied.

20 Q At this time?

21 A Yeah.

22 Q Okay. Do you believe that you will get an accounting  
23 in the future?

24 A I do not believe that I will get one, no.

25 Q And that is based on the email provided to you by  
26 Mr. Bujold?

27 A Correct.

1 Q In respect of your application for full  
2 indemnification, will you produce to me all of your  
3 financial statements, including your employment income,  
4 your assets and their values, and supporting documents  
5 in respect of that?

6 MS. SHANNON: We can undertake to provide  
7 financial information.

8 MS. BONORA: Okay.

9 UNDERTAKING NO. 13:  
10 RE PRODUCE ALL FINANCIAL STATEMENTS,  
11 INCLUDING EMPLOYMENT INCOME, ASSETS AND  
12 THEIR VALUES, AND SUPPORTING DOCUMENTS  
13 IN RESPECT OF THE APPLICATION FOR FULL  
14 INDEMNIFICATION.

15 Q MS. BONORA: When you say in paragraph 27 that  
16 "I represent the interests of my partner and my infant  
17 daughter", you will agree with me that, in fact, you  
18 are not going to represent those interests, correct?

19 A Well, the public trustee is handling my daughter, yes.

20 Q And that your wife is going to file her own Affidavit  
21 and represent her own interest, correct?

22 A Correct.

23 Q And thus they will be represented in this matter,  
24 rather than saying that are currently not represented  
25 in this matter, right? So they will be represented,  
26 correct?

27 A Correct.

1 Q Okay. And then you say, "These interests I represent  
2 are of broader public import and I do not believe that  
3 they have been previously determined."

4 So if your daughter and wife are going to be  
5 represented then you don't have any interests that are  
6 of broader public import, correct?

7 A I didn't say that, no.

8 Q So what are the interests that "I represent are of  
9 broader public import" in respect of that sentence in  
10 paragraph 27?

11 A Okay. Well, I know that there is other beneficiaries  
12 who do not support this proposed variation, so they  
13 would be some.

14 Q So you are representing other beneficiaries that don't  
15 support this application?

16 A I am not officially representing them, but I am -- I  
17 have heard from them that they don't support this.

18 Q So let's just go back to the words in your Affidavit.

19 A Okay.

20 Q It says, "The interests I represent are of broader  
21 public import."

22 So what I am asking you are, what are the interests  
23 that you represent?

24 A Okay, well I am looking out for the interests of all of  
25 the beneficiaries.

26 Q You are representing the interests of all the  
27 beneficiaries of the 1985 Trust?



1 A Sure, yeah.

2 Q You have spoken to those beneficiaries and they have  
3 asked you to represent their interest?

4 A I haven't spoken to every single beneficiary, no.

5 Q Which beneficiary have you spoken to who you are  
6 representing their interest?

7 A Well, I have spoken with my three brothers.

8 Q And are you suggesting that you are representing their  
9 interests?

10 A I would think so, yes.

11 Q And are they -- I think we talked before that they are  
12 not disabled. So why do you have to represent their  
13 interest?

14 A Because this is a big undertaking. I don't think that  
15 perhaps at this time they want to get involved in this.

16 Q So they don't want to get involved, but you are  
17 representing them?

18 A M-hm.

19 Q They have told you to represent them?

20 A No, they haven't officially told me to represent them,  
21 but they have told me that they don't support this  
22 proposed variation.

23 Q So when we talk about that, then, the interests that  
24 you represent that are of broader public import are  
25 your brothers?

26 A Yes.

27 Q You told me before that you paid a retainer of \$5,000?

1 A M-hm.

2 Q Have you paid any other bills to Borden Ladner Gervais  
3 in this action?

4 A Not at this point, no.

5 Q I am going to take a break and then I could be done.

6 MS. SHANNON: Okay.

7 (Questioning adjourned.)

8 (Questioning resumed.)

9 MS. BONORA: Subject to anything arising from  
10 the undertakings, or the objections, or the things  
11 taken under advisement, we are concluding our  
12 questioning.

13 And we will put on the record that we are opposing  
14 questions from Ms. Osualdini in respect of the fact  
15 that these would be questions from Patrick's mother to  
16 him.

17 MS. OSUALDINI QUESTIONS THE WITNESS:

18 Q MS. OSUALDINI: Patrick, I'm showing you a letter  
19 dated January 4th, 2010. Have you ever seen that  
20 letter before?

21 A Yeah, I have seen this before.

22 MS. BONORA: Can I look at the letter?

23 MS. SHANNON: I would like to look at it as well.

24 MS. OSUALDINI: This is the attachment to it.

25 MS. SHANNON: Can we get copies of that?

26 MS. OSUALDINI: Of course.

27 Q MS. OSUALDINI: So you have seen that letter

1 before?

2 A I have definitely seen it before, yeah.

3 Q And how did you receive a copy of it?

4 A I think I got it by mail.

5 Q From who?

6 A From Paul Bujold.

7 Q I note in the letter it refers to --

8 MS. BONORA: Sorry, what is on the back of that  
9 letter?

10 MS. OSUALDINI: It is the newspaper notice.

11 Q MS. OSUALDINI: The letter references that the  
12 eligibility process is expected to take some months.  
13 Information concerning progress on this issue will be  
14 available on the web site, through regular mailouts to  
15 potential applicants, and through this office.

16 Did you ever receive any further mailouts on this?

17 A Not to my -- not to my recollection, no.

18 Q Were you ever contacted by the Trust administrator to  
19 discuss the matter any further?

20 A No.

21 MS. OSUALDINI: Those are all of my questions. And  
22 we will enter this as an exhibit unless you have any  
23 objections.

24 MS. BONORA: Sure.

25 EXHIBIT NO. 1:

26 LETTER DATED JANUARY 4, 2010 FROM MR.  
27 BUJOLD TO THE APPLICANT.

(Questioning adjourned 1:50 p.m.)

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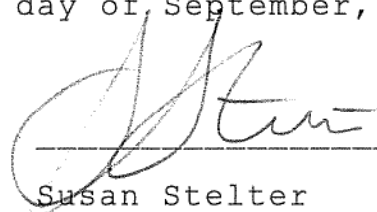
PROCEEDINGS ADJOURNED  
SUBJECT TO UNDERTAKINGS

---

Certificate of Transcript

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed to the best of my skill and ability.

Dated at the City of Edmonton, Province of Alberta, this 23rd day of September, 2016.



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Susan Stelter

Court Reporter

1 EXHIBITS

2 EXHIBIT NO. 1: 75  
3 LETTER DATED JANUARY 4, 2010 FROM MR. BUJOLD  
4 TO THE APPLICANT.

5 UNDERTAKINGS

6 UNDERTAKING NO. 1: 8  
7 RE ADVISE IF APPLICATION ON BEHALF OF  
8 PATRICK TWINN'S DAUGHTER IS STILL BEING  
9 PURSUED NOW THAT THE OFFICE OF PUBLIC  
10 TRUSTEE AND GUARDIANSHIP IS INVOLVED.

11 UNDERTAKING NO. 2: 9  
12 RE ADVISE IF PATRICK TWINN'S WIFE WILL BE  
13 MAKING HER OWN INDEPENDENT APPLICATION TO  
14 BECOME A PARTY IN THE ACTION.

15 UNDERTAKING NO. 3: 21  
16 RE ADVISE WHAT IS MEANT BY THE PHRASE  
17 "WITHOUT EXCEPTION" IN PARAGRAPH 9 OF  
18 PATRICK TWINN'S AFFIDAVIT.

19 UNDERTAKING NO. 4: 24  
20 RE ADVISE WHY PATRICK TWINN IS A BENEFICIARY  
21 OF THE 1986 TRUST.

22 UNDERTAKING NO. 5: 26  
23 RE ADVISE IF PATRICK TWINN BELIEVES THE  
24 APPEAL TO THE ELECTORS AFTER THE CHIEF AND  
25 COUNCIL MAKE A DECISION ABOUT MEMBERSHIP IS  
26 FLAWED.

27 UNDERTAKING NO. 6: (UNDER ADVISEMENT) 34  
RE ADVISE OF PATRICK TWINN'S POSITION ON HOW  
THE DEFINITION OF BENEFICIARY SHOULD CHANGE  
IN THE 1985 TRUST.

UNDERTAKING NO. 7: (UNDER ADVISEMENT) 36  
RE ADVISE IF PATRICK TWINN BELIEVES THE  
CHAIR AND ADMINISTRATOR ARE A PARTY TO THE  
ACTION.

UNDERTAKING NO. 8: 41  
RE ADVISE IF BERTHA IS STILL PART OF THE  
ELDERS COMMITTEE.

UNDERTAKING NO. 9: 42  
RE CONFIRM THAT AT THIS POINT OTHER THAN  
BERTHA, THE ONLY ELECTED OFFICIAL WOULD BE  
THE CHIEF.

1	UNDERTAKING NO. 10:	43
2	RE ADVISE IF CURRENTLY A MAJORITY OF THE	
	TRUSTEES ARE ELECTED BAND OFFICIALS.	
3	UNDERTAKING NO. 11:	48
4	RE ADVISE IF PATRICK TWINN MEANT ANYTHING	
5	ELSE IN RESPECT OF PAST BENEFICIARIES IN	
	PARAGRAPH 15 OF HIS AFFIDAVIT, OTHER THAN	
	DECEASED BENEFICIARIES.	
6	UNDERTAKING NO. 12: (UNDER ADVISEMENT)	69
7	RE REVIEW RECORDS AND ADVISE IF PATRICK	
8	TWINN RECEIVED A LETTER FROM THE TRUST IN	
	2011 NOTIFYING HIM OF A COURT ACTION.	
9	UNDERTAKING NO. 13:	71
10	RE PRODUCE ALL FINANCIAL STATEMENTS,	
11	INCLUDING EMPLOYMENT INCOME, ASSETS AND	
12	THEIR VALUES, AND SUPPORTING DOCUMENTS IN	
13	RESPECT OF THE APPLICATION FOR FULL	
14	INDEMNIFICATION.	
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1 COURT FILE NO: 1103 14112  
2 COURT: QUEEN'S BENCH OF ALBERTA  
3 JUDICIAL CENTRE: EDMONTON  
4

5 IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000,  
6 c.T-8 as amended

7 IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS  
8 SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN,  
9 OF THE SAWRIDGE INDIAN BAND, NO. 19, now known as  
10 SAWRIDGE FIRST NATION, ON APRIL 15, 1985  
11 (The "1985 SAWRIDGE TRUST")

12 APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER  
13 FELIX TWIN, BERTHA L'HIRONDELLE and  
14 CLARA MIDBO, as TRUSTEES FOR THE 1985  
15 SAWRIDGE TRUST

16 -----  
17 QUESTIONING ON AFFIDAVIT  
18 OF  
19 SHELBY TWINN  
20 -----

21 Ms. D.C.E. Bonora	For the Applicants
22 Ms. S.J. Shannon	For Shelby Twinn, Patrick Twinn and Deborah Serafinchon
23 Ms. C.C. Osualdini	For Catherine Twinn
24 Susan Stelter	Court Reporter

25  
26 Edmonton, Alberta

27 22 September, 2016

1 SHELBY TWINN, SWORN AT 9:10 A.M., QUESTIONED BY

2 MS. BONORA:

3 Q MS. BONORA: Can I call you Shelby?

4 A Yes.

5 MS. SHANNON: Before we get started can we get it  
6 on the record why the other parties aren't in the room  
7 for questioning.

8 MS. BONORA: There are two other affiants who  
9 have sworn Affidavits, Patrick Twinn and Deborah  
10 Serafinchon, who are also applying to be parties, and I  
11 have objected to them being in the questioning while  
12 the other party is being questioned because their  
13 Affidavits are very similar. And so I have objected to  
14 them being in the room.

15 MS. SHANNON: Okay, thanks.

16 MS. BONORA: Did you want to add anything?

17 MS. SHANNON: No.

18 MS. BONORA: Very good. Thanks for reminding  
19 me.

20 Q MS. BONORA: And you are an applicant in Action  
21 1103 14112 to be added as a party to this action; is  
22 that correct?

23 A Yes.

24 Q And you have sworn an Affidavit, and your Affidavit was  
25 sworn on July 26th, 2016?

26 A Yes.

27 Q And can you tell me, do you have an occupation? Are



1       you working?

2   A    Yeah, I am working as an accounts payable for Rolling  
3       Mix Concrete.

4   Q    And can you tell me what your education is, the level  
5       of education you have achieved?

6   A    I have graduated high school and I am currently in an  
7       accounting program course at NAIT.

8   Q    Okay, perfect. And can you tell me where you live?

9   A    I live in Edmonton. I live just -- I actually live on  
10      the Enoch Reserve in a building just behind the River  
11      Cree Hotel.

12   Q    Okay.

13   A    Yeah.

14   Q    And you live on the Enoch Reserve because you have some  
15      status there?

16   A    No, just that was a choice to live.

17   Q    Okay. You are allowed to live on the reserve? Are you  
18      a member of the Enoch Reserve?

19   A    No.

20   Q    Do you live with someone who is a member of the Enoch  
21      reserve?

22   A    No. I live with roommates who are not.

23   Q    Okay. And your father lives on the Sawridge First  
24      Nation reserve, correct?

25   A    Yes.

26   Q    And you lived on Sawridge First Nation reserve until  
27      you were five?

1 A Yes.

2 Q And after you left did you do anything to keep your  
3 address known to the Sawridge First Nation?

4 A I do not know. I was five, so I don't know what was  
5 done back then.

6 Q Okay.

7 A Being five I couldn't have kept anyone in contact where  
8 my address was.

9 Q Right. So in the times that you have known about your  
10 address being known to the Sawridge First Nation, did  
11 you do anything to keep your address known to them?

12 A No. I was in contact with family members who had the  
13 ability to reach me who are members of the Sawridge  
14 Band. So I was never completely cut off of contact.

15 Q Okay.

16 A From aunts, uncles, cousins.

17 Q Okay.

18 A Always in contact.

19 Q And do you have Indian status?

20 A Yes.

21 Q And are you entitled to education from the Sawridge  
22 First Nation because you have Indian status?

23 A Because I am a beneficiary of the 1966 trust -- or '85  
24 trust, sorry, yeah.

25 Q I am not asking you about the trust.

26 A Yeah.

27 Q I am asking you about the fact that as a status Indian

1       you would have access to education funding. So I am  
2       asking you about that, not about the trust?

3   A   As far as I know, just being a status Indian with the  
4       government, that that does not just automatically give  
5       me access to education funding.

6   Q   Okay. You haven't pursued that in any event?

7   A   No.

8   Q   So in your Affidavit in paragraph 4 you said that the  
9       trustees, with the exception of Catherine Twinn, are  
10      seeking to amend the definition of beneficiary under  
11      the 1985 Trust?

12   A   M-hm.

13   Q   Can you tell me what your understanding of Catherine  
14      Twinn's position is?

15   A   Is that she would like to involve the beneficiaries in  
16      making sure their interests are heard on the amending  
17      of the definition of beneficiary.

18   Q   And so when you say with the exception of Catherine  
19      Twinn, that is the only exception, is that she wants to  
20      involve other people in the amendment?

21   A   I don't understand what you mean by that question.

22   Q   Okay. So your statement in your Affidavit is "I  
23      understand that the Sawridge trustees, with the  
24      exception of Catherine Twinn, are seeking to amend the  
25      definition of beneficiary under the 1985 Trust."

26   A   M-hm, yes.

27   Q   So what I am asking you is what has Catherine Twinn

1 told you about the fact that she is the exception in  
2 terms of amending the definition? So just focusing on  
3 the amendment to the definition?

4 A As in she is the one who is not on board with them  
5 changing that definition with them right now, yeah.

6 Q So you have had those discussions with Catherine Twinn?

7 A Yeah, she has been the only one involved with the Trust  
8 to reach out to me and involve me and say you are a  
9 possible beneficiary, this is what is happening.

10 Q She reached out to you?

11 A Well, I reached out to her because I had moved to  
12 Edmonton and I had been invited to her house through  
13 her sons, and I guess kind of me reaching out to her.

14 Q Okay. And so then you have had discussions with her  
15 about the Trust and this action?

16 A Yes, absolutely.

17 Q And when did those discussions start?

18 A Late 2013.

19 Q Okay. And from 2013 to now did you take any steps to  
20 get involved in the litigation?

21 A Not as I am right now.

22 Q Okay. And other than what you have just said now, did  
23 Catherine Twinn tell you anything else about the  
24 position that she was taking?

25 A No, as far as I know it is just pretty much the same  
26 position that I am taking.

27 Q Sorry, what is --

1 A Being wanting to be involved in changing, amending of  
2 the definition.

3 Q And in terms of wanting to be involved in amending the  
4 definition, what do you want to be involved in?

5 A I want people to have a say in what this definition  
6 will be amended to.

7 Q Okay. And what would be your position on that?

8 A My position on that in amending the definition would be  
9 to strike out any discriminatory aspects, but that is  
10 it. Keep the definition the same and take out anything  
11 that is discriminatory, which would continue my  
12 beneficiaries.

13 Q You believe that can be achieved?

14 A Absolutely.

15 Q And so is your position, then, similar to what the  
16 position of Catherine Twinn is taking?

17 A Yes.

18 Q And did she encourage you to bring this application?

19 A She not so much encouraged me, she gave me the  
20 information and told me what was going on. I decided  
21 on my own that I should get involved because I am going  
22 to be the one who cares about my interest.

23 Q Now you have hired Borden Ladner Gervais to represent  
24 you?

25 A M-hm.

26 Q Is that a yes?

27 A Yes.

1 Q You have to say yes because she can't record a nod.

2 And when you retained Borden Ladner Gervais did you  
3 pay them a retainer?

4 A I personally did not pay them a retainer. My  
5 grandmother helped us out in that.

6 Q Who is your grandmother?

7 A Catherine.

8 Q Catherine Twinn?

9 A Yup.

10 Q So Catherine Twinn paid the retainer for Borden Ladner  
11 Gervais?

12 A Yes.

13 Q Do you know the amount of the retainer?

14 A No.

15 Q Can you undertake to find that out for me?

16 A Yes.

17 Q Okay.

18 UNDERTAKING NO. 1:

19 RE ADVISE THE AMOUNT OF RETAINER PAID TO  
20 BORDEN LADNER GERVAIS.

21 Q MS. BONORA: Now you advised that you are not a  
22 member of Sawridge First Nation?

23 A Yes.

24 Q And have you ever applied to be a member of the  
25 Sawridge First Nation?

26 A No.

27 Q Do you ever intend to apply to be a member of the

1 Sawridge First Nation?

2 A That is still up in the air. Depending on how I feel  
3 -- as I am a young adult I don't know where I am at  
4 emotionally, and when I know to take that I will, and  
5 until then I am not sure.

6 Q Okay. You say that you are a beneficiary of the 1985  
7 Trust, correct?

8 A Yes.

9 Q And is it your understanding that you are a beneficiary  
10 because you are the child of a male member of Sawridge  
11 First Nation?

12 A Yes.

13 Q And so your father is Paul Twinn?

14 A Yes.

15 Q And he is a member of the Sawridge First Nation?

16 A Yes.

17 Q And he is also the brother to Patrick Twinn?

18 A Yes.

19 Q And he is also an applicant in this application?

20 A Patrick.

21 Q Yes. And Aspen is Patrick's daughter?

22 A Yes.

23 Q And so Aspen is your cousin?

24 A Yes.

25 Q Okay. And there is no other way that you are a  
26 beneficiary of the 1985 Trust, correct?

27 MS. SHANNON: I am not sure she can answer that,

1       counsel. Legal determination whether or not she is a  
2       beneficiary.

3   MS. BONORA:               I am just asking for her  
4       understanding of it, not for a legal determination.

5   Q   MS. BONORA:           So from your understanding of the  
6       facts that you know you are a beneficiary because you  
7       are the daughter of Paul Twinn, correct?

8   A   Yes.

9   Q   Okay. Now in paragraph 4 of your Affidavit you say  
10      that you are not a member of the Sawridge Band and you  
11      are not on the Sawridge Band list which is controlled  
12      by Chief and council. So what do you mean by that in  
13      terms of being controlled by Chief and council?

14   A   That they are the ones who get to decide who is a  
15      member and not a member.

16   Q   Okay. And are you aware of the membership process in  
17      terms of the fact that as a first application goes to  
18      Chief and council, but then there is a number of  
19      appeals that can happen subsequent to that?

20   A   No, as far as I know you apply and then just see what  
21      happens.

22   Q   Okay. So your understanding of the process is that  
23      Chief and council decides, and that is the end of the  
24      process?

25   A   As far as that, yes.

26   Q   Okay. And so that is the reason that you have said  
27      that the list, the membership list, sorry, is



1 controlled by Chief and council?

2 A Yes.

3 Q So you are not aware that after the Chief and council  
4 make the decision on membership that, in fact, there  
5 can be an appeal to all of the electors of the Sawridge  
6 First Nation?

7 A I was not aware of that.

8 MS. SHANNON: Counsel, for reference, do you mind  
9 if I put her Affidavit in front of her?

10 MS. BONORA: Gosh, no. Sorry, I thought she  
11 might have it. My apologies, yes, yes. Please feel  
12 free to read it and take the time if you need that.

13 Q MS. BONORA: Who told you that there was 44  
14 Sawridge Band members?

15 A Catherine.

16 Q And when you were retaining Borden Ladner Gervais, did  
17 Catherine attend with you as well?

18 A Attend?

19 Q When you met with your lawyers to discuss this action,  
20 did Catherine Twinn attend as well?

21 A No.

22 Q In paragraph 5 of your Affidavit you say you wish to be  
23 added as a party to deal with the definition of  
24 beneficiaries, but also to deal with the transfer of  
25 assets into the 1985 Trust. Do you understand now that  
26 the transfer of assets issue has been settled?

27 A Yes.

1 Q And is it your intention to deal with the transfer of  
2 assets issue if you are added as a party?

3 A No.

4 Q So you won't be challenging the transfer of assets  
5 issue?

6 A No.

7 Q Okay. In paragraph 5(ii) of your application you are  
8 asking for an order that the Sawridge trustees provide  
9 an accounting and pass their accounts for the 1985  
10 Trust; is that correct?

11 A Yes.

12 Q And you are also seeking in 5(iii) of your Affidavit  
13 advance costs and full indemnification costs?

14 A M-hm.

15 Q What does that mean to you, full indemnification costs?

16 A That means to cover my legal fees ongoing.

17 Q And you are seeking full indemnification costs from the  
18 1986 Trust. Why do you think that you can get costs  
19 from the 1986 Trust?

20 A That, I honestly don't know why that is on there.

21 Q You don't believe that you have any rights to get costs  
22 from the 1986 Trust?

23 A No.

24 Q In paragraphs 9 and 10 of your Affidavit, if you take a  
25 look at them, you describe yourself as registered as an  
26 Indian in paragraph 9. And in paragraph 10 you say,  
27 "My biological father, Paul Twinn, is recognized as a

1 status Indian."

2 Can you tell me if there is any difference between  
3 those two?

4 A No, as far as I know.

5 Q So you would be a status Indian as well?

6 A Yes.

7 Q And so you lived on the Sawridge First Nation reserve  
8 until you were five, and is it true that you basically  
9 had no connection with the Sawridge First Nation until  
10 you made some contact with Arlene Twinn more recently?

11 A True, yes.

12 Q Okay. And when did you start to have some contact with  
13 Sawridge First Nation?

14 A It must have been maybe late high school age for me,  
15 around there, through social media.

16 Q And you have no contact with your father?

17 A No.

18 Q Since you were five?

19 A No. No contact.

20 Q And so you had some contact with Arlene Twinn in high  
21 school, and then did you maintain some contact with  
22 your relatives from high school on?

23 A Yeah.

24 Q And did that include contact with Catherine Twinn and  
25 her family?

26 A No, that didn't happen until -- contact with Catherine  
27 didn't happen until I moved to Edmonton.

1 Q That was in 2013?

2 A Yes.

3 Q Okay. And did you have any contact with your  
4 grandfather, Walter Twinn?

5 A Not since I was five.

6 Q And so you didn't speak to him before his death?

7 A No.

8 Q Okay. In paragraph 14 of your Affidavit you say that  
9 you had no contact with the Trust administrator or  
10 didn't learn about the Trust until 2013.

11 When was the first time that you learned about the  
12 Trust?

13 A In 2013.

14 Q Okay. And at that time did you contact the Trust  
15 administrator?

16 A No, I believe I didn't contact until I had sent in  
17 school funding which would have been 2014 maybe.

18 Q Okay. And when you had some contact regarding the  
19 Trust in 2013, did you learn about the action then  
20 involving the Trust as well?

21 A Yes.

22 Q And did you learn about the web site that had the  
23 documents listed at that time as well?

24 A Yes, I knew about the web site.

25 Q And that was all in 2013?

26 A Yes.

27 Q Okay. Arlene Twinn, in paragraph 15 of your Affidavit,

1       you say Arlene Twinn asked you to complete a membership  
2       application; is that correct?

3     A     Yes.

4     Q     And you have chosen not to complete that membership  
5       application?

6     A     Yes.

7     Q     And is it true, then, that you have reservations about  
8       becoming a member of Sawridge First Nation because you  
9       don't want to be part of the Sawridge First Nation  
10      community?

11    A     I'm not ready to be a part of the Sawridge First Nation  
12      community.

13    Q     Is it your understanding that the assets in the Trust  
14      belonged and do belong to the Sawridge First Nation  
15      members?

16    A     Which Trust are we speaking about?

17    Q     The only one that you are interested in is the 1985  
18      Trust?

19    A     Yeah, so that would belong to the people who are  
20      beneficiaries under the rules.

21    Q     Okay. And so let me start, do you understand that the  
22      assets in the Trust belong to the Sawridge First Nation  
23      members before it was put in the Trust?

24    A     I don't understand that question.

25    Q     Okay. Do you know where the assets came from that went  
26      in to the Trust?

27    A     No.

1 Q In paragraph 16 of your Affidavit you talk about your  
2 sister being included for grandfathering. Tell me how  
3 you know about that.

4 A That I was made aware by Catherine.

5 Q So your sister was represented by the Office of the  
6 Public Guardian and Trustee? Do you know that?

7 A I don't know that.

8 Q Okay. So in terms of your sister being included for  
9 grandfathering, what do you know about that?

10 A That they had presented a list of minors at a certain  
11 time. With that they would grandfather in, with the  
12 striking and amending of the previous beneficiary rule.

13 Q Okay. And so today you don't know that at that time  
14 your sister was on a list being represented by the  
15 Office of the Public Guardian and Trustee?

16 A No.

17 Q And you say in paragraph 16 that your sister has never  
18 been contacted by the Trust?

19 A No.

20 Q Okay. She has told you that?

21 A She has never told me that which means that she has  
22 never been contacted.

23 Q So she hasn't told you that she hasn't been contacted?

24 A Yeah.

25 Q She has just never told you about being contacted?

26 A No, she has never told me because she has never been  
27 contacted. She has never had the need to tell me.

1 Q Because you are assuming that she tells you everything?

2 A Absolutely.

3 Q Did you tell her about your conversation with Catherine  
4 Twinn about this action in 2013?

5 A No, I have not included my sister in any of the  
6 conversations because she does not want to be included  
7 or involved.

8 Q How do you know that she doesn't want to be included --

9 A Because she has told me --

10 Q Just wait, I have to put the question on the record,  
11 okay. How do you know that she doesn't want to be  
12 involved if you never talked to her about it?

13 A Because she has told me she does not want to be  
14 involved with anything that has to do with Slave Lake  
15 or Sawridge.

16 Q So you simply avoid that conversation with her?

17 A Yeah, out of respect for her.

18 Q And so you don't know for sure that she wasn't  
19 contacted by the Office of the Public Guardian and  
20 Trustee in respect of this action?

21 A She has not told me.

22 Q In paragraph 17 you say, "I do verily believe that my  
23 paternal grandfather who settled the Trust would have  
24 wanted my sister and me to be beneficiaries regardless  
25 of our Sawridge Band membership status."

26 It is true that you did not ever hear that from  
27 your grandfather?

1 A I have not heard that from him, no.

2 Q So that is simply your belief?

3 A Looking at the rules that he had put in place in the  
4 deed for that Trust, yes, that is where I am pulling my  
5 information from.

6 Q Okay. But you don't know from him what he believed?

7 A No.

8 Q Okay. Or what his intentions were?

9 A I know his intentions through the rules that he set in  
10 that deed for us, that Trust.

11 Q Right. But you don't know anything outside of that  
12 from your grandfather?

13 A No.

14 Q So in paragraph 17 you say, "I strongly oppose the  
15 proposal to change the rules that define beneficiary in  
16 the 1985 Trust to band members controlled by the Chief  
17 and council as that we would not be beneficiaries." Do  
18 you see that sentence?

19 A Yes.

20 Q So we have already talked about the fact that you  
21 weren't aware of the whole membership process in terms  
22 of how members are brought in to the band and the fact  
23 that it is not entirely controlled by Chief and  
24 council, correct?

25 A Yes.

26 Q And in terms of being strongly opposed to the proposal  
27 to change the rules that define beneficiaries, you said



1       that you wish to be included but you would like to also  
2       end the discrimination?

3    A    Yes.

4    Q    And you believe that can be achieved?

5    A    Absolutely.

6    Q    In paragraph 18 you say, "I believe the purpose of the  
7       1985 Trust was to ensure that a larger, more inclusive  
8       family group beyond that of individual members picked  
9       by Chief and council." Do you see that?

10   A    Yes.

11   Q    And you will agree with me again that this whole issue  
12       of members picked by Chief and council was based on a  
13       belief that wasn't entirely accurate in terms of how  
14       the membership process is in place at Sawridge First  
15       Nation?

16   MS. SHANNON:                    I am not sure I understand that  
17       question, counsel.

18   A    Yeah.

19   Q    MS. BONORA:                Okay. So there is this continuing  
20       reference to members being chosen by Chief and council.  
21       So I just want to start by the fact that this third  
22       reference in your Affidavit to the band members as  
23       controlled by Chief and council was based on a belief  
24       that wasn't accurate in terms of the membership  
25       process; is that correct?

26   A    Yes.

27   Q    And so when you say I believe that the purpose of the

1       1985 Trust was to ensure a larger and more inclusive  
2       family group beyond that of individual members, your  
3       belief is based simply on you reading the Trust?

4   A   My belief on that from what I understand is that there  
5       are only 44 members of the band, and that this would  
6       include family members and many people who should be,  
7       it would include them. So it would not only be 44  
8       members.

9   Q   Right. So that is not really my question, but perhaps  
10      my question was poor. So let me try again.

11           So in paragraph 18 you talk about you believe the  
12      purpose of the Trust was to ensure a larger, more  
13      inclusive family group beyond that of the individual  
14      members?

15   A   Yes.

16   Q   I am asking you what you base your belief on and  
17       suggesting that you are basing that belief simply by  
18       reading the Trust documents?

19   A   Yes.

20   Q   And you have had no discussions with anyone about the  
21       history of the Trust and why it was created, have you?

22   A   No.

23   Q   And have you ever been told that there was an intention  
24       from the start to perhaps change this Trust once Bill  
25       C-31 was put in place? Have you ever been told that?

26   A   That there was an intention to change the Trust, no.

27   Q   Okay. We have talked a bit about your knowledge of the

1 membership process. So you haven't done any individual  
2 investigation about the whole membership process in  
3 Sawridge First Nation?

4 A No.

5 Q And how did you come to believe that it was just  
6 members are chosen simply by Chief and council?

7 A That is just as far as I know, that they are the ones  
8 who decide who is in, who is out. That is ...

9 Q And how did you come to know that? Were you told that  
10 by someone? Did you read the membership code?

11 A No, I was told that Chief and council are the ones who  
12 control the band list.

13 Q And who told you that?

14 A Catherine.

15 Q And do you understand that if the definition is changed  
16 to members, that if you apply to be a member and you  
17 are successful then you would be a beneficiary of the  
18 Trust?

19 A I would be if it was successful.

20 Q Do you have any reason to believe that your application  
21 would not be successful?

22 A I don't know either way.

23 Q You have made no inquiries?

24 A No.

25 Q In paragraph 18 you say, you start by saying "This  
26 would include a larger, more inclusive family group  
27 beyond the individual members" and then go on to say,

1 "this would include women who married male band members  
2 and their children." Is there some reason you put that  
3 into your Affidavit?

4 A That would just -- just informational purposes, that  
5 they are family members. It would include a larger  
6 group of family members.

7 Q Okay. Are you suggesting that women who marry male  
8 band members cannot become members of the Sawridge  
9 First Nation?

10 A I am not saying that.

11 Q So you don't know anything about that. It is possible  
12 that they could become members of the Sawridge --

13 A If approved to become a member, yes.

14 Q And that is also true of their children, their children  
15 could apply to become members of the Sawridge First  
16 Nation?

17 A Yes.

18 Q Okay. You go on to say that you believe that it is  
19 essentially impossible to marry within the Sawridge  
20 Band as there is only 44 Sawridge Band members. Can  
21 you tell me how it is relevant in terms of why it would  
22 be important that it would be impossible to marry?

23 A As in passing on the right to be a band member  
24 indefinitely would not be an option.

25 Q And do you think that if you married a Sawridge First  
26 Nation member that you would be able to pass on  
27 membership indefinitely?

1 A I'm not a member, so no.

2 Q Okay. So that paragraph or that sentence is there only  
3 because you are suggesting that there are people, if  
4 there were two members who could marry, they could pass  
5 on membership indefinitely?

6 A Yes.

7 Q Now in paragraph 19 of your Affidavit you wrote a  
8 letter to Paul Bujold to ask for an accounting of the  
9 1985 Trust?

10 A Correct.

11 Q And did you have any assistance in writing that letter?

12 A Yes.

13 Q And who helped you with that letter?

14 A Catherine helped me with this email.

15 Q And was there a particular reason that you focused on  
16 getting the legal accounts?

17 A After knowing how long this -- how many years these  
18 trusts have been involved in this, as being a  
19 beneficiary I have a right to know where the money of  
20 that Trust is going and how much is being used.

21 Q Okay. And did Catherine Twinn specifically talk to you  
22 about getting the legal accounts?

23 A Yes.

24 Q And then you go on to say that you believe that the  
25 request for the accounting was refused?

26 A Yes.

27 Q Okay. And when we look at Paul Bujold's response do

1       you believe that he made an absolute refusal, or that  
2       he only made a refusal to provide it at a particular  
3       time?

4    A   How I read that was that at the moment, so waiting for  
5       the definition to change where he would not have to  
6       submit information to me is how I read that.

7    Q   And it is your intention that you wish to have the  
8       accounting -- the accounts passed by the courts,  
9       correct? That is the application?

10   MS. SHANNON:               I'm going to object to that.  
11       Accounts passed is legal terminology.

12   MS. BONORA:                Okay.

13   Q   MS. BONORA:            Now you are seeking full  
14       indemnification costs. So I am going to ask you if you  
15       could provide for us your full financial statements  
16       including all assets you own, savings, vehicles,  
17       employment income, and liabilities. And if you would  
18       undertake to do that?

19   MS. SHANNON:               She can undertake to provide the  
20       information that she has access to.

21                                UNDERTAKING NO. 2:

22                                RE PROVIDE FINANCIAL STATEMENTS  
23                                INCLUDING ASSETS OWNED, SAVINGS,  
24                                VEHICLES, EMPLOYMENT INCOME AND  
25                                LIABILITIES

26   Q   MS. BONORA:            So you say in paragraph 22 that  
27       without this financial assistance there is no way that

1 I can proceed and no way -- no realistic option for you  
2 to bring this issue to the court.

3 Can you tell me what you have been told about what  
4 kind of budget you need in order to proceed as a party  
5 in this litigation?

6 A I have not been aware of any budget.

7 Q So you have not been told how much it will cost to be a  
8 party?

9 A No.

10 Q So I am going to ask you how can you determine that you  
11 can not afford it if you don't know what the cost is?

12 A Because I am barely managing my personal costs. I  
13 guarantee to you an extra \$100 every month is not going  
14 to cover what needs to be, costs.

15 Q You haven't asked that question of your counsel?

16 A No.

17 Q In terms of the Trust do you and your sister have any  
18 different interests?

19 A No.

20 Q In paragraph 23 you say that you don't believe -- you  
21 do not believe that your sister and you are the only  
22 children of Sawridge First Nation who would qualify as  
23 beneficiaries under the current definition and who  
24 would lose their entitlement to under the Sawridge  
25 trustee's proposed amendment. Who are the other people  
26 that you are speaking of?

27 A I do not know them personally, but by the sheer fact

1       that there are only 44 band members, that I believe  
2       that there are many more out there.

3   Q    So it is a simple belief.  You don't know anyone in  
4       particular?

5   A    No.

6   Q    And then you go on to say that you believe that my  
7       interests are of broader public import.  What do you  
8       mean by that?

9   A    As in this will help anyone else going through the  
10      exact same thing that I am going through.

11  Q    So you are suggesting that broader public import is  
12      simply helping the people who are in exactly the same  
13      position as you are, being the child of a male band  
14      member?

15  A    Yes.

16  Q    Is that it?

17  A    Yes, they have a right to voice their interest.

18  Q    So they have a right to voice their interests, and you  
19      are saying that is your broader public import, that you  
20      want to represent the people who are also children of  
21      male band members, correct?

22  A    Yes.

23  Q    And that at this point you don't know who those people  
24      are?

25  A    No.

26  Q    Are you aware that the Office of the Public Guardian  
27      and Trustee represents children who are the children of



1 male band members?

2 A Minors, yes.

3 Q Okay. And do you think that their interests are  
4 different than yours?

5 A No.

6 (Questioning adjourned.)

7 (Questioning resumed.)

8 MS. BONORA: So Shelby, thank you very much. I  
9 am concluding my questions. So subject to anything  
10 arising from the undertakings that were given, I'm  
11 concluding my questioning.

12 A All right, thank you.

13 MS. OSUALDINI: Just to start I would like to place  
14 on the record that in attendance today are Paul Bujold  
15 and Brian Heidecker who I understand is the Trust  
16 administrator and the chair of the Board of the  
17 Trustees. And I understand that that is Denton's  
18 clients who are giving instructions. That is the  
19 reason why they are present today.

20 MS. BONORA: You can put your understanding on  
21 the record. I'm not going to respond to that.

22 MS. OSUALDINI: Is that a correct understanding?

23 MS. BONORA: My clients are the trustees and  
24 they have certain arrangements in terms of how they  
25 give instructions which I don't think is information  
26 that I am prepared to put on the record.

27 MS. OSUALDINI: On what basis are these two

1 gentlemen here today?

2 MS. BONORA: They are part of the client team.

3 MS. OSUALDINI: Okay.

4 MS. OSUALDINI QUESTIONS THE WITNESS:

5 Q MS. OSUALDINI: Shelby, my name is Crista and I am  
6 counsel for Catherine and I just have a few questions  
7 for you.

8 This morning you were asked about your reservations  
9 about being part of the Sawridge community and applying  
10 for band membership. What are those reservations?

11 A My reservations about applying and being part of the  
12 community are that through personality shortcomings of  
13 my father, and the treatment of my mother by not only  
14 my father, other members, makes me a little wary of  
15 getting involved with that emotionally. I don't know  
16 if I am in an emotional spot right now in my life to be  
17 able to handle that and take that ...

18 Q Is there any reservation that you have about the band  
19 membership process and applying?

20 A I am concerned that in applying I will end up waiting  
21 years for an answer. I don't much know how fast the  
22 decision process is that if I will apply, I could get  
23 it right away, I could wait years.

24 Q And why do you think that you might wait years?

25 A Due to other possible applicants who have applied and  
26 waited years.

27 Q You are aware of other people applying and waiting for

1       years?

2    A    Yes.

3    Q    We spoke this morning about the Office of the Public  
4       Trustee?

5    A    M-hmm.

6    Q    Have you ever been contacted by the Office of the  
7       Public Trustee about litigation related to the 1985  
8       Trust?

9    A    I have not been contacted by them. I contacted a  
10       lawyer who worked for the public trustee.

11   Q    Okay. When did you contact them?

12   A    My goodness, maybe a year or so ago. A year or two  
13       years ago.

14   Q    And when did you first become aware that the trustees  
15       of the 1985 Trust, with the exception of Catherine,  
16       were seeking a change from the definition of  
17       beneficiaries from what it is currently to membership  
18       in the band?

19   A    Late 2013 I was made aware that the beneficiary rules  
20       were in question.

21   Q    Okay. You were aware that the beneficiary rules were  
22       in question, or what was going to be done about them?

23   A    What was going to be done about them.

24   Q    Okay. All right, thank you.

25   MS. BONORA:                    I just want it on the record as  
26       well that Catherine Twinn is here today.

27   MS. OSUALDINI:                That is fine.

1 MS. BONORA RE-QUESTIONS THE WITNESS:

2 Q MS. BONORA: One follow-up question. In terms  
3 of the answers that you have just given with respect to  
4 the membership process that people have waited years to  
5 be approved for membership, who did you get that  
6 information from?

7 A Through Catherine and Gina.

8 Q And that is Catherine Twinn?

9 A Yes.

10 Q And Gina?

11 A McDonald, I believe.

12 Q Okay. Who is she?

13 A She is another person who has applied to become a band  
14 member.

15 Q And how did you meet Gina McDonald?

16 A Through Catherine.

17 Q Okay. Thank you, those are all of my questions.

18 (Questioning adjourned 10:05.)

19

20

PROCEEDINGS ADJOURNED

21

SUBJECT TO UNDERTAKINGS

22

23

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25

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27

Certificate of Transcript

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed to the best of my skill and ability.

Dated at the City of Edmonton, Province of  
Alberta, this 26th day of September, 2016.

Susan Stelter  
Court Reporter

## 1 UNDERTAKINGS

2 UNDERTAKING NO. 1: 8  
3 RE ADVISE THE AMOUNT OF RETAINER PAID TO  
BORDEN LADNER GERVAIS.

4 UNDERTAKING NO. 2: 24  
5 RE PROVIDE FINANCIAL STATEMENTS INCLUDING  
6 ASSETS OWNED, SAVINGS, VEHICLES, EMPLOYMENT  
INCOME AND LIABILITIES

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COURT FILE NO. 1103 14112

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

IN THE MATTER OF THE TRUSTEE ACT,  
RSA 2000, C. T-8, AS AMENDED

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

**COPY**

APPLICANTS **ROLAND TWINN, WALTER FELIX TWINN, BERTHA  
L'HIRONDELLE, CLARA MIDBO AND CATHERINE TWINN, as  
trustees for the 1985 Sawridge Trust**

DOCUMENT **REPLY BRIEF OF CATHERINE TWINN FOR SPECIAL CHAMBERS CASE  
MANAGEMENT MEETING ON JUNE 30, 2015**

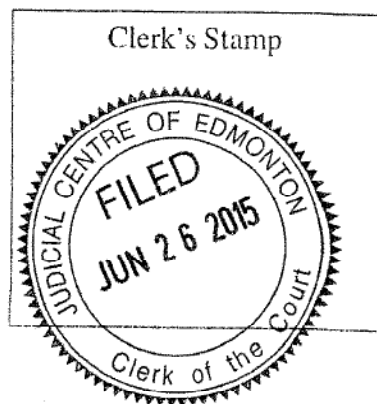
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**McLENNAN ROSS LLP**  
LEGAL COUNSEL

#600 West Chambers  
12220 Stony Plain Road  
Edmonton, AB T5N 3Y4

Lawyer: Karen Platten, Q.C.  
Telephone: (780) 482-9200  
Fax: (780) 482-9100  
Email: kplatten@mross.com  
File No.: 144194



## PART 1 INTRODUCTION

1. McLennan Ross LLP acts on behalf of Catherine Twinn in her capacity as a trustee of the Sawridge Band Inter Vivos Settlement, April 15, 1985 (the "1985 Trust") and the Sawridge Trust, August 15, 1986 (the "1986 Trust") (collectively referred to as the "Trusts"). This representation extends to being counsel of record for Catherine Twinn in Court of Queen's Bench Action No. 1403 04885 (the "2014 Action").
2. While Dentons LLP and Reynolds Mirth Richards & Farmer LLP, represent the collective group of the trustees of the Trusts, our client has found it necessary to retain independent representation as her instructions and concerns as a trustee of the Trusts were not being represented by these firms due to her views representing the minority position amongst the trustees.

## VARIATION OF TRUSTS

3. The trustees of the 1985 Trust are the applicants in Action No. 1103 14112 (the "2011 Action"). It has been represented to the Court that the 1985 Trustees are seeking the Court's direction in setting the procedure for seeking the opinion, advice and direction of the Court in regards to:
  - (a) Determining the beneficiaries of the 1985 Trust;
  - (b) Reviewing and providing direction with respect to the transfer of assets of the 1985 Trust;
  - (c) Making any necessary variations to the 1985 Trust.

Reply Brief of Roland Twinn, Everett Justin Twinn, Bertha L'Hirondelle, and Margaret Ward, filed June 23, 2015 ("Reply Brief") at Tab 1.



4. While it appears that these have become the issues raised in the 2011 Action, an Originating Application or other form of commencement document has not been filed by the applicants in the 2011 Action, despite the Order of Justice Thomas on August 31, 2011 in the 2011 Action to do so.

Reply Brief at Tab 2.

5. This is a serious concern. Without a proper originating document, it is difficult or impossible for persons potentially affected by the proposed variation to respond because the substance of the application is not clear nor is the proposed relief sought.
6. The applicants, without the knowledge or consent of Catherine Twinn, have recently put forward a "with prejudice" settlement offer that, amongst other matters, proposes to grandfather certain minor persons in as beneficiaries of the 1985 Trust. This is being put forward as a solution that will allow the Court to approve the proposed variation of the definition of beneficiaries in the 1985 Trust to include Sawridge Band members only.
7. Ms. Twinn disagrees that this settlement offer is capable of acceptance, for the following reasons, which will be discussed more fulsomely below:
  - (a) The provisions of the *Trustee Act* have not been complied with;
  - (b) The completeness and legality of the proposed list of affected minors has not been adequately substantiated;
  - (c) The issue of the proposed minors to be grandfathered are excluded.
8. The decision of Justice Thomas in the 2011 Action issued June 12, 2012 directs that the Office of the Public Guardian and Trustee (OPGT) may "pursue, through questioning, information relating to the Sawridge Band membership criteria and processes because such information may be relevant and material to determining issues arising on the advice and directions application."

Reply Brief at Tab 3.

9. At present, the OPGT has not yet been able to fulsomely conduct its Court ordered investigation into Sawridge Band membership criteria process for the purpose of ascertaining how the proposed variation in beneficiary designation will affect minors.
10. The settlement offer proposed by the other trustees of the 1985 Trust fails to provide any reasonable assurances that the minors listed are all of the potential minor beneficiaries of the 1985 Trust pursuant to the current beneficiary designation. Despite being a trustee of the 1985 Trust, Ms. Twinn is unaware of how this list was generated or determined. Further, this offer fails to grandfather in the issue of these listed minors.
11. It is essential that the OPGT's investigation be allowed to proceed, unimpeded, so that the potentially affected minors can be ascertained and the effect of the proposed variation to the beneficiary designation can be fully assessed by this Honourable Court.
12. Ms. Twinn has grave concerns surrounding the current Sawridge Band member selection process. Despite counsel for the applicants' assurances to the Court at the June 24, 2015 application that the process is appropriate, Ms. Twinn, who is a member of the Band and has first-hand knowledge of the process, does not share this view. The particulars of Ms. Twinn's concerns can be shared with counsel for the OPGT if the relief requested by the OPGT in its application to be heard at Case Management is granted.
13. Given that this is ultimately an application seeking to vary the terms of a trust, it is essential to consider the provisions of the *Trustee Act*, RSA 2000, c. T-8 (the "*Trustee Act*").
14. Section 42 of the *Trustee Act* sets out the legislated requirements when a variation of the terms of a trust is sought. In order to vary a trust, the approval of the Court of Queen's Bench is required.

(2) Subject to any trust terms reserving a power to any person or persons to revoke or in any way vary the trust or trusts, a trust arising before or after the commencement of this section, whatever the nature of the property involved and whether arising by will, deed or other disposition, shall not be varied or terminated before the expiration of the period of its natural duration as determined by the terms of the trust, except with the approval of the Court of Queen's Bench.

15. Section 42(6) of the *Trustee Act* provides that prior to submitting an application for approval of a variation to the trust to the Court of Queen's Bench, written approval of all beneficiaries who are capable of consenting must be obtained.

(6) Before a proposed arrangement is submitted to the Court for approval it must have the consent in writing of all other persons who are beneficially interested under the trust and who are capable of consenting to it.

16. The written approval of all persons beneficially interested in the 1985 Trust has not been obtained, because the other trustees of the 1985 Trust, to the knowledge of Ms. Twinn, have not taken steps to properly ascertain these persons.
17. Ms. Twinn, who believes herself to be a beneficiary of the 1985 Trust, certainly does not approve of the proposed variation.
18. Ms. Twinn is very concerned by the other trustees insistence that the beneficial designation of the 1985 Trust be modified without first ascertaining who the beneficiaries of the 1985 Trust are and obtaining their consent. This is a requirement under the *Trustee Act*.
19. Further, Section 42(7) of the *Trustee Act* provides that when exercising its discretion to approve a variation of trust on behalf of those persons enumerated in 42(5) of the *Trustee Act*, the Court may not approve an arrangement unless it is satisfied that the arrangement appears to be for the benefit of, amongst others, minor persons.

(7) The Court shall not approve an arrangement unless it is satisfied that the carrying out of it appears to be for the benefit of

each person on behalf of whom the Court may consent under subsection (5), and that in all the circumstances at the time of the application to the Court the arrangement appears otherwise to be of a justifiable character.

(5) In approving any proposed arrangement, the Court may consent to the arrangement on behalf of

- (a) any person who has, directly or indirectly, an interest, whether vested or contingent, under the trust and who by reason of minority or other incapacity is incapable of consenting,
- (b) any person, whether ascertained or not, who may become entitled directly or indirectly to an interest under the trusts as being, at a future date or on the happening of a future event, a person of any specified description or a member of any specified class of persons,
- (c) any person who after reasonable inquiry cannot be located, or
- (d) any person in respect of any interest of the person's that may arise by reason of any discretionary power given to anyone on the failure or determination of any existing interest that has not failed or determined.

20. Ms. Twinn supports the OPGT's application and implores the Court to allow the OPGT to complete their investigation so that a just result can be reached for all the beneficiaries of the 1985 Trust. Our client submits that without the OPGT's investigation, a determination of whether the proposed variation to the beneficiary designation is beneficial to entitled minors cannot occur, as is required pursuant to the *Trustee Act*.

21. To date, Ms. Twinn has self funded her representation in this matter, unlike the other trustees, which she believes to show her deep concern for these matters and commitment to obtaining a just result for the 1985 Trust beneficiaries.

#### CONFIDENTIALITY CONCERNS

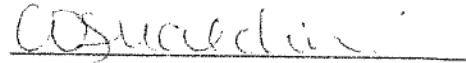
22. Bryan & Company LLP, counsel for the other trustees, has raised concerns pertaining to McLennan Ross LLP communicating confidentiality with counsel for the OPGT, Ms. Hutchinson, due to our retainer in the 2014 Action.

23. Our client asserts that while the matters that may need to be discussed with the OPGT also relate to the 2014 Action, this does not mean that they do not relate independently to the 2011 Action. As such, we can see no basis for any requirement that all communications with the OPGT must include all counsel.
24. In fact, given the OPGT's mandate to investigate the Band Membership process, it impedes that investigative process if private communications with Ms. Hutchinson cannot occur.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at the City of Edmonton, in the Province of Alberta, this 26<sup>th</sup> day of June, 2015.

MCLENNAN ROSS LLP

Per:



Karen Platten, Q.C.

Solicitor for Catherine Twinn, trustee of the  
1985 Trust

## SAWRIDGE BAND INTER VIVOS SETTLEMENT

## DECLARATION OF TRUST

THIS DEED OF SETTLEMENT is made in duplicate the 5<sup>th</sup>  
day of April, 1985

B E T W E E N :

CHIEF WALTER PATRICK TWINN,  
of the Sawridge Indian Band,  
No. 19, Slave Lake, Alberta,  
(hereinafter called the "Settlor"),

OF THE FIRST PART,

- and -

CHIEF WALTER PATRICK TWINN,  
GEORGE V. TWIN and SAMUEL G. TWIN,  
of the Sawridge Indian Band,  
No. 19, Slave Lake, Alberta,  
(hereinafter collectively called  
the "Trustees"),

OF THE SECOND PART.

WHEREAS the Settlor desires to create an inter vivos settlement for the benefit of the individuals who at the date of the execution of this Deed are members of the Sawridge Indian Band No. 19 within the meaning of the provisions of the Indian Act R.S.C. 1970, Chapter I-6, as such provisions existed on the 15th day of April, 1982, and the future members of such band within the meaning of the said provisions as such provisions existed on the 15th day

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of April, 1952 and for that purpose has transferred to the Trustees the property described in the Schedule hereto;

AND WHEREAS the parties desire to declare the trusts, terms and provisions on which the Trustees have agreed to hold and administer the said property and all other properties that may be acquired by the Trustees hereafter for the purposes of the settlement;

NOW THEREFORE THIS DEED WITNESSETH THAT in consideration of the respective covenants and agreements herein contained, it is hereby covenanted and agreed by and between the parties as follows:

1. The Settlor and Trustees hereby establish a trust fund, which the Trustees shall administer in accordance with the terms of this Deed.

2. In this Settlement, the following terms shall be interpreted in accordance with the following rules:

- (a) "Beneficiaries" at any particular time shall mean all persons who at that time qualify as members of the Sawridge Indian Band No. 19 pursuant to the provisions of the Indian Act R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after the date of the execution of this Deed all persons who at such particular time

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would qualify for membership of the Sawridge Indian Band No. 19 pursuant to the said provisions as such provisions existed on the 15th day of April, 1982 and, for greater certainty, no persons who would not qualify as members of the Sawridge Indian Band No. 19 pursuant to the said provisions, as such provisions existed on the 15th day of April, 1982, shall be regarded as "Beneficiaries" for the purpose of this Settlement whether or not such persons become or are at any time considered to be members of the Sawridge Indian Band No. 19 for all or any other purposes by virtue of amendments to the Indian Act R.S.C. 1970, Chapter I-6 that may come into force at any time after the date of the execution of this Deed or by virtue of any other legislation enacted by the Parliament of Canada or by any province or by virtue of any regulation, Order in Council, treaty or executive act of the Government of Canada or any province or by any other means whatsoever; provided, for greater certainty, that any person who shall become enfranchised, become a member of another Indian band or in any manner voluntarily cease to be a member of the Sawridge Indian Band



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No 19 under the Indian Act R.S.C. 1970, Chapter I-6, as amended from time to time, or any consolidation thereof or successor legislation thereto shall thereupon cease to be a Beneficiary for all purposes of this Settlement; and

(b) "Trust Fund" shall mean:

- (A) the property described in the Schedule hereto and any accumulated income thereon;
- (B) any further, substituted or additional property and any accumulated income thereon which the Settlor or any other person or persons may donate, sell or otherwise transfer or cause to be transferred to, or vest or cause to be vested in, or otherwise acquired by, the Trustees for the purposes of this Settlement;
- (C) any other property acquired by the Trustees pursuant to, and in accordance with, the provisions of this Settlement; and
- (D) the property and accumulated income thereon (if any) for the time being and from time to time into which any of the aforesaid properties and accumulated income thereon may be converted.

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3. The Trustees shall hold the Trust Fund in trust and shall deal with it in accordance with the terms and conditions of this Deed. No part of the Trust Fund shall be used for or diverted to purposes other than those purposes set out herein. The Trustees may accept and hold as part of the Trust Fund any property of any kind or nature whatsoever that the Settlor or any other person or persons may donate, sell or otherwise transfer or cause to be transferred to, or vest or cause to be vested in, or otherwise acquired by, the Trustees for the purposes of this Settlement.

4. The name of the Trust Fund shall be "The Sawridge Band Inter Vivos Settlement", and the meetings of the Trustees shall take place at the Sawridge Band Administration Office located on the Sawridge Band Reserve.

5. Any Trustee may at any time resign from the office of Trustee of this Settlement on giving not less than thirty (30) days notice addressed to the other Trustees. Any Trustee or Trustees may be removed from office by a resolution that receives the approval in writing of at least eighty percent (80%) of the Beneficiaries who are then alive and over the age of twenty-one (21) years. The power of appointing Trustees to fill any vacancy caused by the death, resignation or removal of a Trustee shall be vested in the continuing Trustees or Trustee of this Settlement and such

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power shall be exercised so that at all times (except for the period pending any such appointment, including the period pending the appointment of two (2) additional Trustees after the execution of this Deed) there shall be at least five (5) Trustees of this Settlement and so that no person who is not then a Beneficiary shall be appointed as a Trustee if immediately before such appointment there is more than one (1) Trustee who is not then a Beneficiary.

6. The Trustees shall hold the Trust Fund for the benefit of the Beneficiaries; provided, however, that at the end of twenty-one (21) years after the death of the last survivor of all persons who were alive on the 15th day of April, 1982 and who, being at that time registered Indians, were descendants of the original signators of Treaty Number 8, all of the Trust Fund then remaining in the hands of the Trustees shall be divided equally among the Beneficiaries then living.

Provided, however, that the Trustees shall be specifically entitled not to grant any benefit during the duration of the Trust or at the end thereof to any illegitimate children of Indian women, even though that child or those children may be registered under the Indian Act and their status may not have been protested under section 12(2) thereunder.

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The Trustees shall have complete and unfettered discretion to pay or apply all or so much of the net income of the Trust Fund, if any, or to accumulate the same or any portion thereof, and all or so much of the capital of the Trust Fund as they in their unfettered discretion from time to time deem appropriate for any one or more of the Beneficiaries; and the Trustees may make such payments at such time, and from time to time, and in such manner and in such proportions as the Trustees in their uncontrolled discretion deem appropriate.

7. The Trustees may invest and reinvest all or any part of the Trust Fund in any investments authorized for Trustees' investments by the Trustees' Act, being Chapter T-10 of the Revised Statutes of Alberta, 1980, as amended from time to time, but the Trustees are not restricted to such Trustee Investments but may invest in any investment which they in their uncontrolled discretion think fit, and are further not bound to make any investment nor to accumulate the income of the Trust Fund, and may instead, if they in their uncontrolled discretion from time to time deem it appropriate, and for such period or periods of time as they see fit, keep the Trust Fund or any part of it deposited in a bank to which the Bank Act (Canada) or the Quebec Savings Bank Act applies.

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8.       The Trustees are authorized and empowered to do all acts necessary or, in the opinion of the Trustees, desirable for the purpose of administering this Settlement for the benefit of the Beneficiaries including any act that any of the Trustees might lawfully do when dealing with his own property, other than any such act committed in bad faith or in gross negligence, and including, without in any manner to any extent detracting from the generality of the foregoing, the power

- (a) to exercise all voting and other rights in respect of any stocks, bonds, property or other investments of the Trust Fund;
- (b) to sell or otherwise dispose of any property held by them in the Trust Fund and to acquire other property in substitution therefor; and
- (c) to employ professional advisors and agents and to retain and act upon the advice given by such professionals and to pay such professionals such fees or other remuneration as the Trustees in their uncontrolled discretion from time to time deem appropriate (and this provision shall apply to the payment of professional fees to any Trustee who renders professional services to the Trustees).

9.       Administration costs and expenses of or in connection with the Trust shall be paid from the Trust Fund,

including, without limiting the generality of the foregoing, reasonable reimbursement to the Trustees or any of them for costs (and reasonable fees for their services as Trustees) incurred in the administration of the Trust and for taxes of any nature whatsoever which may be levied or assessed by federal, provincial or other governmental authority upon or in respect of the income or capital of the Trust Fund.

10. The Trustees shall keep accounts in an acceptable manner of all receipts, disbursements, investments, and other transactions in the administration of the Trust.

11. The provisions of this Settlement may be amended from time to time by a resolution of the Trustees that receives the approval in writing of at least eighty percent (80%) of the Beneficiaries who are then alive and over the age of twenty-one (21) years provided that no such amendment 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 subparagraph 2(a) of this Settlement or changes or alters in any manner, or to any extent, the beneficial ownership of the Trust Fund, or any part of the Trust Fund, by the Beneficiaries as so defined.

12. The Trustees shall not be liable for any act or omission done or made in the exercise of any power, authority or discretion given to them by this Deed provided such

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act or omission is done or made in good faith; nor shall they be liable to make good any loss or diminution in value of the Trust Fund not caused by their gross negligence or bad faith; and all persons claiming any beneficial interest in the Trust Fund shall be deemed to take notice of and subject to this clause.

13. Subject to paragraph 11 of this Deed, a majority of fifty percent (50%) of the Trustees shall be required for any decision or action taken on behalf of the Trust.

Each of the Trustees, by joining in the execution of this Deed, signifies his acceptance of the Trusts herein. Any other person who becomes a Trustee under paragraph 5 of this Settlement shall signify his acceptance of the Trust herein by executing this Deed or a true copy hereof, and shall be bound by it in the same manner as if he or she had executed the original Deed.

14. This Settlement shall be governed by, and shall be construed in accordance with the laws of the Province of

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Alberta.

IN WITNESS WHEREOF the parties hereto have  
executed this Deed.

SIGNED, SEALED AND DELIVERED  
in the presence of:

Robert J. Thom  
NAME

A. Settlor

Box 326, Slave Lake, Alta  
ADDRESS

Robert J. Thom  
NAME

B. Trustees:

Box 326, Slave Lake, Alta  
ADDRESS

1.

Robert J. Thom  
NAME

2.

Box 326, Slave Lake, Alta  
ADDRESS

Robert J. Thom  
NAME

3.

Box 326, Slave Lake, Alta  
ADDRESS

Schedule

One Hundred Dollars (\$100.00) in Canadian Currency.