

COURT FILE NUMBER: 1103 14112

COURT: COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

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

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

(See Attached for Appearances)

QUESTIONING ON AFFIDAVIT OF
PAUL MARC BUJOLD

Edmonton, Alberta, Canada
November 29, 2016

Volume 1

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ALSO PRESENT:

Deanna Jackson, CSR(A)

Realtime Reporter

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(PROCEEDINGS COMMENCED AT 12:59 P.M.)

PAUL MARC BUJOLD, having been duly affirmed, questioned
by Sandi J. Shannon, Esq., testified as follows:

Q Can you please confirm your legal name for the
record.

A Paul Bujold.

Q Do you confirm that you've taken an oath here today
and that it's binding on your conscience?

A I do.

Q Thank you, Mr. Bujold.

I am pronouncing that
correctly, Bujold?

A Bujold. You don't pronounce the "ld."

Q Bujold.

And you are the Paul Bujold
who swore the affidavit dated October 31st and filed
in Court File Number 1103 14112; is that correct?

A I am.

Q I understand that you were examined by Ms. Hutchison
for the public trustees on May 27th and May 28th,
2014. Do you recall that?

A Yes, I do.

Q And I understood that you confirmed to Ms. Hutchison
in that examination that it was your understanding
you had the authority to bind the 1985 Trust with
your evidence. Is that your understanding here
today?

1 A Yes, yes, yes.

2 Q Mr. Bujold, I know this is not your first time in
3 examinations, so I'm going to run through the
4 housekeeping matters pretty quickly.

5 I'll ask that you allow me to
6 finish my questions before you answer. If you don't
7 understand a question that I'm asking, please ask me
8 to clarify or I'm going to proceed as though you
9 have -- I will proceed on the assumption that you've
10 understood what I've asked.

11 A Okay.

12 Q And if you could please make sure that your answers
13 are verbal. You're nodding to me right now.

14 A Yes.

15 Q We can't record nods or other gestures.

16 A Yes.

17 Q So yes or no. Same with "mm-hmm," we can't record.
18 If I refer to the "1985 Trust" today, you'll know
19 that I'm referring to the Sawridge Band inter vivos
20 settlement created in 1985?

21 A Yes.

22 Q If I use any other short form, I will try to define
23 it. If I happen to use it and you're not sure what
24 I'm talking about, please ask me to clarify.

25 A I will.

26 Q So I understand that you are chief executive officer
27 of the Sawridge Trusts?

1 A I am.

2 Q What is that? What's your role?

3 A My role is to administer the affairs of the Trust
4 and to assist the trustees in carrying out their
5 duties.

6 Q Have you had any other roles or titles with respect
7 to the 1985 Trust?

8 A No.

9 Q I understood that you were trust administrator and
10 program manager as well at one point?

11 A Yes. Program manager is the same as trust
12 administrator.

13 Q So all of those are subsumed in your title of CEO?

14 A They are.

15 Q So there's no difference between the roles that you
16 play in each title?

17 A No.

18 Q And when did you become CEO?

19 A September 2009.

20 Q Had you ever been CEO or trust administrator,
21 program manager of a trust before?

22 A Not of a trust, no.

23 Q So how did you end up in this position?

24 A I had provided -- or I had operated agencies that
25 provided social services and developed programs. So
26 I was hired initially to develop programs --
27 benefits programs for the beneficiaries.

1 Q And you have sworn an affidavit in support of the
2 Sawridge trustees' reply brief to Patrick Twinn,
3 Shelby Twinn, and Deborah Serafinchon's application
4 in Court File Number 1103 14112. Who are the
5 current Sawridge trustees?

6 A Bertha L'Hirondelle, Catherine Twinn, Justin Twin --
7 and they're spelled differently -- Roland Twinn, and
8 Margaret Ward.

9 Q So you are not a Sawridge trustee?

10 A I'm not.

11 Q You are not a beneficiary of the Trusts?

12 A I'm not.

13 Q Are you recognized as a Status Indian by the federal
14 government?

15 A No, I'm not.

16 Q Are the Sawridge trustees beneficiaries of the
17 1985 Trust?

18 A Are the Sawridge beneficiaries --

19 Q Are the trustees also beneficiaries of the
20 1985 Trust?

21 A Yes, they are. Except for one. Bertha L'Hirondelle
22 is not a beneficiary of the 1985 Trust.

23 Q I'm going to ask if you can have your affidavit
24 handy. I think you already have it in front of you.

25 A It is.

26 Q Just give me a moment, and I will do the same.

27 So I understand that pursuant

1 to an order dated August 31st, 2011, that
2 Justice Thomas obligated the trustees to send notice
3 of an advice and direction application to certain
4 persons. Is that your understanding?

5 A Yes, it is.

6 Q And that order is attached as Exhibit A to your
7 affidavit?

8 A Yes, it is.

9 Q Why don't we get that out. And the persons that you
10 were -- when I say "you," I meant the Sawridge
11 trustees -- were to serve are those listed in
12 Section 2 or paragraph 2 of the order; is that
13 correct?

14 A That's correct.

15 Q (a) through (i)?

16 A That's right.

17 Q So if I refer to "interested parties," I'm referring
18 to the persons outlined in paragraph 2(a) through
19 (i).

20 A Yes.

21 Q So paragraph 1 of the order I'm going to call "the
22 August 31st order" --

23 A Yes.

24 Q -- states that (quoted):

25 "An application shall be brought by the
26 Trustees of the 1985 Sawridge Trust for
27 the opinion, advice and direction of the

1 Court respecting the administration and
2 management of the property held under the
3 1985 Sawridge Trust...."

4 Do you see that?

5 A Yes, I do.

6 Q So I take it at the time of this order, no
7 application had been filed?

8 A No.

9 Q And that's the first paragraph that I read there.
10 So anyone who was sent this order, that would be the
11 first thing they would see in the order, that would
12 be paragraph 1?

13 A Yes.

14 Q And so did the Sawridge trustees ever file an
15 application?

16 MS. BONORA: I'm going to -- we'll take
17 that question under advisement. I'm going to object
18 to that question.

19 MS. SHANNON: Can I ask why you're taking
20 that under advisement?

21 MS. BONORA: Because this has been the
22 subject of much discussion among counsel in respect
23 of the -- what the application involved and what the
24 application was, and so I don't think it's a proper
25 question.

26 MS. SHANNON: So I'm going to disagree with
27 you there.

1 MS. BONORA: That's fine.

2 MS. SHANNON: This affidavit has been filed
3 in support of an application that's in part at least
4 saying that the Patrick Twinn, Shelby Twinn, and
5 Deborah Serafinchon should have known of this
6 application in advance. So whether or not there was
7 an application is directly relevant to this
8 application.

9 MS. BONORA: The order was the
10 application. And so that has been discussed
11 numerous times in various forums.

12 MS. SHANNON: So apart from the order,
13 then, there was no separate application?

14 MS. BONORA: I've given you my position on
15 that.

16 OBJECTION TO QUESTION

17 MS. OSUALDINI: Is the witness going to adopt
18 that evidence that you just gave about whether an
19 application was or wasn't filed?

20 MS. BONORA: That was my justification for
21 objecting.

22 MS. OSUALDINI: The objection, okay.

23 Q MS. SHANNON: So when you say you provided
24 notice, then, you provided the order of August 31st,
25 2011?

26 A No. When we provided the notice, we didn't include
27 the order.

1 Q So then I'm a little bit confused then, because at
2 paragraph 2 and 3 of your affidavit -- I'll ask you
3 to look at that. You explicitly state that you
4 served the August 31st order.

5 A Paragraph 2?

6 Q Paragraphs 2 and 3.

7 I can see that counsel is
8 handing you a document. What is the document that
9 you are reviewing?

10 A This is a registered letter -- or a copy of the
11 registered letter that was sent to all the people
12 who were listed in the Section 2 of the order, which
13 is the interested parties.

14 Q Now, I don't think I have a copy of that.

15 A In the -- in our filing of the order, the way that
16 the procedural order lists is that all of the court
17 documents will be posted on a website and that all
18 people will be referred to that website, and that
19 will serve as filing a copy of the order. And
20 that's what's said in the letter.

21 Q So my question, then, is in your affidavit you say
22 that you served Patrick Twinn and
23 Deborah Serafinchon -- and this is at paragraphs 2
24 and 3 -- with the August 31st order.

25 A Right.

26 Q So that didn't happen, then? You didn't serve them
27 with the August 31st order?

1 A We did according to the provisions of the procedural
2 order.

3 Q So you understood that you served them by telling
4 them to look at a website?

5 A That's right.

6 Q So when you say that you personally served them with
7 a filed copy of the August 31st order, you didn't
8 personally serve them with the August 31st order?

9 A We served them with a notice of where to look for
10 the order, which was how we were directed by the
11 Court.

12 Q And that's what you understood was the direction of
13 the Court?

14 A That's right.

15 MS. SHANNON: Can we go off the record for
16 a moment.

17 (DISCUSSION OFF THE RECORD)

18 Q MS. SHANNON: We are going to place in
19 evidence a -- I'm not sure how to describe this. As
20 it's not actually directed to anybody, I'm going to
21 assume this is a template, form?

22 A It's a form letter. Form letter.

23 Q Form letter dated September 1st, 2011, on the
24 Sawridge Trusts' letterhead, signed by
25 Mr. Paul Bujold as trusts administrator.

26 Exhibit Number 1:

27 Form letter dated September 1, 2011, on

1 the Sawridge Trusts' letterhead, signed by
2 Mr. Paul Bujold as trusts administrator.

3 Q MS. SHANNON: So no other court documents
4 were served on the interested parties?

5 A According to the procedural order, everything was
6 served if it was posted on the website.

7 Q So apart from the website, you didn't personally
8 send any other court documents to any --

9 A No.

10 Q -- other interested parties?

11 A No.

12 Q I'm going to ask that you let me finish my question
13 before you answer.

14 A Sorry.

15 Q That's all right. It's just difficult for them to
16 record when we are talking over one another.

17 A Yes. I understand.

18 Q So I'm looking at Exhibit 1, which is the
19 September 1st, 2011, form of notice. That's how I'm
20 going to refer to that. Do you have another copy
21 for yourself to look at?

22 A I'm just looking for it. Thanks. Yes, I do.

23 Q So this was the letter that you've sent out to
24 everyone in paragraph 2 of the order?

25 A Yes.

26 Q So how did you determine who fit into the categories
27 in paragraph 2 of the order, the August 31st order?

1 A Well, the order lists -- it defines each category,
2 so each category based on what the category defined.
3 So Category A, for example, it says "the Sawridge
4 First Nation," so then it was filed with the
5 corporate Sawridge First Nation. And then all
6 registered members is B, of the Sawridge First
7 Nation. So they have a specific list of people.
8 All persons known to be beneficiaries of the
9 1985 Trust and former members of the Sawridge First
10 Nation, and as it goes on.

11 So that list we determined by
12 looking at people who filed affidavits, persons who
13 filed affidavits in support -- or against this
14 1103 14112 action. Persons who were on the list
15 that the Sawridge Trusts had, children of members of
16 the Sawridge First Nation. So it was basically we
17 have a list, a notification list that was sent out.

18 In addition to the
19 notification list, there was a whole list of persons
20 who are affiliated with Sawridge First Nation by
21 Indigenous and Northern Affairs Canada that we
22 didn't have access to. So we also sent notice to
23 the Minister of Indian Affairs to notify those
24 persons.

25 Q I understand that you requested that list and it was
26 denied; is that correct?

27 A Yes.

1 Q You're looking at a list right now. What is that
2 list?

3 A This is the list of who -- this is the notice list
4 that goes with that letter. So this is the list of
5 persons to whom that letter was sent and the address
6 to which we sent it and what category they fall
7 under in Section 2 of the procedural order.

8 Q Can we get a copy of that list, and we'll enter that
9 as Exhibit 2.

10 Was there any other list
11 besides this list --

12 A No, no.

13 Q -- that defined those people -- the interested
14 parties who were served?

15 A That's the notice list.

16 MS. SHANNON: So this is the notice list
17 for application for advice and direction dated
18 August 26, 2011.

19 Exhibit Number 2:

20 Notice list for application for advice and
21 direction dated August 26, 2011.

22 Q MS. SHANNON: Did you seek the assistance
23 of any experts or consultants in determining who
24 would qualify under Section 2 for service of the
25 notice?

26 A We didn't -- other than consulting the trustees, we
27 didn't seek the advice of any experts, no.

1 Q How many interested persons were served with the
2 notice?

3 A I think it's 192, but I'm not sure exactly. We'd
4 have to count the list.

5 Q So approximately 192?

6 A Yes, approximately.

7 Q No nodding.

8 A Sorry.

9 Q It's okay.

10 And do you recall the names
11 and addresses of all of these people, or would you
12 have to consult the list?

13 A I'd have to consult the list.

14 Q So I take it that you consulted the list when
15 determining that you served Patrick Twinn and
16 Deborah Serafinchon with the notice?

17 A Yes.

18 Q Do you consider that you personally served those
19 192?

20 A No. They were all served by registered mail.

21 Q So did you only personally serve Patrick Twinn and
22 Deborah Serafinchon, then?

23 A Personally in terms of sending by registered mail.

24 Q So the reason I ask is because in your affidavit you
25 state that you personally served them.

26 A By "personally" I mean by registered mail.

27 Q By registered mail, okay. What do you mean by

1 **"personally"? Did you stuff envelopes?**

2 A Yes, I did.

3 **Q Write addresses?**

4 A Yes, I did.

5 MS. BONORA: Sorry. Can you just point
6 out the "personal service" in the affidavit?

7 MS. SHANNON: Sure.

8 MS. BONORA: I just don't see that word.

9 MS. SHANNON: Sorry. "I did serve."

10 MS. BONORA: But the word "personally"
11 isn't there.

12 MS. SHANNON: Yeah.

13 MS. BONORA: Is that right?

14 MS. SHANNON: Yes. "I did serve."

15 **Q MS. SHANNON: So you handwrote the**
16 **addresses, and you took all of the --**

17 A I didn't handwrite the addresses. I used a computer
18 to generate a series of mailing labels. I stuffed
19 the envelopes. I signed the letters. Yes.

20 **Q Did you have assistance from anybody else?**

21 A I did. I had two office assistants.

22 **Q Two office assistants to assist, okay.**

23 And just to confirm -- I
24 think we've already asked this question -- but the
25 list that we've provided and is now Exhibit 2 in
26 this matter, that's the list that you consulted to
27 determine if Patrick and Deborah were --

1 A It was the list I created.

2 Q You created. When did you create the list?

3 A I created the list over a period of time with
4 assistance from the trustees.

5 Q So I mean more than over a period of time. Can you
6 give me some actual dates?

7 A The order -- the procedural order was granted in
8 August. The notice was sent out, I believe, that
9 letter -- I don't have the letter in front of me.
10 Sorry. September 1st. So from the period of the
11 granting of the procedural order until September 1st
12 is when the list was put together. So we had
13 started preparing the list because we knew it was
14 coming. So we had started preparing the list
15 throughout the month of August in 2011.

16 Q I'm just going to take a minute to look at the list.
17 So I'm looking at the list that you provided me, and
18 that's Exhibit 2, notice list for application for
19 advice and direction, August 26th, 2011.

20 A Yes.

21 Q I notice there's no date on here when these parties
22 were served. So did you serve all of these parties
23 on the same day, then?

24 A Yes. Well, the -- all of the envelopes were
25 stuffed. The whole thing was taken down to the post
26 office in one sitting and mailed.

27 Q Do you recall the date on which that was?

1 A It was the week of September 1st. So it would have
2 been -- I can look back on my calendar if you want.

3 Q Sure. Why don't you undertake -- we'll request an
4 undertaking that you provide the date that you
5 served the parties listed in Exhibit 2.

6 A Okay.

7 Undertaking Number 1:

8 Provide the date that Mr. Bujold served
9 the parties listed in Exhibit 2.

10 Q MS. SHANNON: So do you have a specific
11 recollection of serving Patrick Twinn?

12 A Insofar as I stuffed an envelope with
13 Patrick Twinn's name on the outside and applied
14 postage to it, yes.

15 Q Sorry, Mr. Bujold. I'm going to ask that you put
16 your phone away during the examination. Thank you.
17 I can see you were looking at a calendar, but I
18 can't see what you're looking at when you've got
19 your back of your phone to me.

20 So you specifically recall
21 seeing Patrick Twinn's name on an envelope?

22 A Yes.

23 Q And you state that you sent it by registered mail?

24 A Yes.

25 Q What registered mail service did you use?

26 A Canada Post.

27 Q Typically you receive confirmation when you send

1 anything by registered mail. Did you receive
2 confirmations for those people listed in Exhibit 2?

3 A I believe we did. I believe we did.

4 Q I'm going to request that you undertake to provide
5 the confirmation of receipt of the September 2011
6 notice of Patrick Twinn.

7 A Yes.

8 Q So at paragraph 2 of your affidavit, you say that
9 you --

10 MS. BONORA: Sorry. On the last
11 undertaking, we'll just make our best efforts,
12 because he only said he believed that he received
13 them. So we don't know -- we won't give the
14 undertaking to actually provide them unless we
15 received them, right. So we'll give the undertaking
16 to look for them and provide them to you if we have
17 them.

18 Undertaking Number 2:

19 Look for the confirmation of receipt of
20 the September 2011 notice to Patrick Twinn
21 and provide it if found.

22 Q MS. SHANNON: So you say (quoted):

23 "I verily believe that the registered mail
24 sent to Patrick Twinn was delivered to his
25 attention."

26 A Which paragraph are you referring to?

27 Q Paragraph 2, last sentence.

1 A Yes.

2 Q What are you basing this belief on?

3 A Canada Post.

4 Q So you're just assuming because you put it in the
5 mail that it went to Patrick at the right address?

6 A If I put something in the mail and I register it,
7 Canada Post is obliged to carry out the delivery and
8 notify me when they have delivered and who has
9 not -- or who has rejected or not received. So we
10 did get a list of those people who did not receive
11 or rejected the notice.

12 Q So we're going to request an undertaking that you
13 provide the list of those people who --

14 A We can provide it now.

15 Q So we can put this list into evidence as Exhibit 3.
16 And we can call it Sawridge Trust list of returned
17 registered mail starting September 14th, 2011. So
18 this is just the mail that was returned to you?

19 A That's right.

20 Q Not mail that have may have been delivered to the
21 wrong address or where nobody actually picked it up?

22 A As far as I understood from Canada Post, because I
23 did inquire about this, if I send a registered
24 letter, somebody has to sign for it on the other
25 end. So it wasn't delivered to the wrong address.

26 Q So you're assuming, then, that the person that
27 signed for it was the person who it was to the

1 **attention to, or do you know that?**

2 A I have no idea. I would presume that Canada Post
3 wouldn't deliver it to a stranger. There must have
4 been a reason for that person to have the right to
5 sign for it if they did.

6 Exhibit Number 3:

7 Sawridge Trust list of returned registered
8 mail starting September 14, 2011.

9 Q **MS. SHANNON:** So if you can pull out that
10 notice and have it in front of you.

11 A Which one am I looking at?

12 Q This is Exhibit 1. So you've told me that this is
13 the notice that you've sent to the interested
14 parties and those listed in Exhibit 2?

15 A It is.

16 Q So nowhere in this notice do you tell potential
17 people that they should come forward if they want to
18 participate in Court Number 1103 14112; is that
19 correct? I can give you a moment to read it.

20 A It's true. In the letter there's nothing that says
21 that, because they're referred to the Sawridge
22 Trusts website. But there is notice in the last
23 sentence -- or the second-last sentence that says
24 (quoted as read):

25 "The order also includes deadlines for
26 filing affidavits and written legal
27 arguments with the Court with respect to

1 the advice and direction application."

2 So there is notice there that
3 there are deadlines.

4 Q Well, there's notice that there's going to be
5 affidavits and written legal argument?

6 A Right.

7 Q But there's nowhere actually in there that tells
8 potential beneficiaries or interested parties that
9 they need to come forward by a certain date?

10 A No. Because they are referred in fact to the court
11 docs website.

12 Q So what would be the first -- do you know what the
13 first document on the website is, on the Sawridge
14 website?

15 A It's the procedural order.

16 Q It's the procedural order. So if they went to the
17 procedural order, and we've discussed this, the
18 first thing they would see is that you were -- the
19 Sawridge trustees were instructed to bring an
20 application?

21 MS. BONORA: I think that question is
22 incorrectly worded, and so I'm objecting to the
23 question.

24 MS. SHANNON: So paragraph 1 of the
25 order --

26 MS. BONORA: I'm objecting to the
27 question. You're not going to convince me

1 otherwise.

2 MS. SHANNON: I'm not sure what you're
3 objecting to with this question.

4 MS. BONORA: I'm saying I'm objecting to
5 the question. The question is improper in terms of
6 what the order says, and I'm not allowing the
7 witness to answer the question.

8 MS. SHANNON: Well, how about I read
9 paragraph 1 of the order, then.

10 Q MS. SHANNON: So paragraph 1 of the order,
11 and you may want to get that out so that you can
12 follow along with me and make sure I don't miss any
13 of the words. Paragraph 1 of the order says (quoted
14 as read):

15 "An application shall be brought by the
16 Trustees of the 1985...Trust for the
17 opinion, advice and direction of the Court
18 respecting the administration and
19 management of the property held under the
20 1985 Sawridge Trust...."

21 And then it goes on to say
22 what the advice and direction application shall
23 include. Is that in accordance with your
24 understanding of what the first paragraph of the
25 August 31st order states?

26 MS. BONORA: Well, sorry. You're saying
27 is that his understanding of what the order says.

1 You've read it to him.

2 Q MS. SHANNON: That's what the order states.
3 So people who received this notice, they did not
4 receive -- in this notice, you do not tell them that
5 they need to come forward in Court File
6 Number 1103 14112; correct?

7 MS. BONORA: Well, I think when we looked
8 at the letter --

9 MS. SHANNON: Counsel, I'm not interested
10 in your evidence. I'm interested in your client's
11 evidence.

12 MS. BONORA: I'm objecting to the
13 question.

14 MS. SHANNON: That question is not
15 objectionable.

16 MS. BONORA: I'm objecting to the
17 question.

18 MS. SHANNON: You're objecting to the
19 question of what is in this letter?

20 MS. BONORA: No. You wouldn't let me tell
21 you why I'm objecting. So if you want me to tell
22 you, I'll tell you.

23 MS. SHANNON: Go ahead.

24 MS. BONORA: So the letter specifically
25 talks about deadlines saying -- it specifically says
26 that the order includes deadlines for filing
27 affidavits, so it's inappropriate to say that there

1 was no notice of any deadlines or any fact that
2 there had to be things that were filed. That's
3 inappropriate because that's not what the letter
4 says. That's why I'm objecting to the question.

5 MS. SHANNON: That wasn't my question.

6 MS. BONORA: Okay. You can ask the
7 question again.

8 Q MS. SHANNON: My question was that nowhere
9 in this notice does it state that potential
10 beneficiaries should come forward in Court File
11 Number 1103 14112?

12 MS. BONORA: I think we'll let the letter
13 speak for itself.

14 OBJECTION TO QUESTION

15 Q MS. SHANNON: Okay. So, Mr. Bujold, how
16 did you expect -- so you expected people who
17 received this notice to go to the website and to
18 read all of the documents in order to know what they
19 were to do?

20 A Yes.

21 Q And would you expect that somebody who does not have
22 legal counsel to explain this process, that they
23 would just understand that?

24 A I didn't expect a thing one way or the other. This
25 is what the judge ordered, so we simply followed
26 through what the judge ordered.

27 Q Actually, what the judge ordered, if we look at

1 this, is that -- and I'm reading verbatim
2 paragraph 2 of the August 31st order that (quoted):

3 "The Trustees shall send notice of the
4 Advice and Direction Application...."

5 And the advice and direction
6 application is defined in paragraph 1. And
7 currently what I understand is that we're
8 considering the advice and direction application
9 now, as of -- I don't know when, but now, post this
10 order as being the order.

11 MS. BONORA: I'm objecting to that
12 question.

13 MS. SHANNON: Based on what?

14 MS. BONORA: I've explained to you before
15 we always considered the order as the application,
16 and we -- the letter specifically follows the order
17 in respect of what notice was given, and so that's
18 exactly what happened. And there was other
19 procedural orders that followed, and that's what we
20 did.

21 So it wasn't as though we
22 suddenly have made up this argument that this order
23 was the application. This order always was the
24 application.

25 OBJECTION TO QUESTION

26 Q MS. SHANNON: Mr. Bujold, is that your
27 understanding as well?

1 A Yes, it is.

2 Q So did you explain to any of the interested parties
3 that the order was the application?

4 A Nobody asked the question.

5 Q So that's a no, then?

6 A No.

7 Q So I'm going to ask for one more undertaking with
8 respect to Patrick Twinn and your service of him.
9 We would like an undertaking that you provide any
10 documents or records above those that we have
11 already requested, and we have requested the list
12 which you've already provided, and we've also
13 requested the confirmation by way of undertakings.
14 But any other records relating to you determining
15 that Patrick should be served and that he was served
16 with the notice and when he was served and where he
17 was served.

18 MS. BONORA: I'm sorry. We have to break
19 down the undertaking. So in terms of where he was
20 served, we know it was served by registered mail.
21 So we're not going to give an undertaking on where
22 it was served, because that's an impossible answer.
23 He was served by registered mail.

24 MS. SHANNON: I'm not sure how it's an
25 impossible answer. If you're asked to serve
26 something by court order, one would presume that you
27 have kept track of who you were served -- who you

1 served and kept the confirmation. So I suppose the
2 address would be in the confirmations.

3 MS. BONORA: Right. So we've agreed to
4 undertake to provide the confirmation. So in
5 addition to the confirmation, what are you asking
6 for?

7 MS. SHANNON: Any other records or
8 documents that support that Patrick Twinn was served
9 with the notice or any other documents Patrick Twinn
10 was served with.

11 THE WITNESS: Do you want me to list the
12 other documents?

13 MS. BONORA: Go ahead.

14 Q MS. SHANNON: So is that -- have we
15 accepted?

16 A I'm going to give them to you right now.

17 Q So we can add those as exhibit --

18 A It's just that I need copies before I give them to
19 you as exhibits.

20 Q Why don't we go off the record, and we'll make
21 copies, and then that way we can --

22 A We've got copies.

23 MS. BONORA: Yeah. We just have to -- I'm
24 sorry. They just weren't stapled, so I just have to
25 sort through them.

26 (DISCUSSION OFF THE RECORD)

27 A The first thing I'm going to give you, then, is a

1 copy of newsletters from the Trust that were sent
2 out to all beneficiaries who are on the attached
3 list.

4 Q MS. SHANNON: Can you provide a date that
5 this was sent so we can --

6 A When it says "fall/winter 2011," which is the first
7 newsletter, that means they would have been sent out
8 between September and December of 2011.

9 MS. SHANNON: As this is the first time
10 that we're seeing these -- being provided with these
11 documents, we'll reserve our right to question on
12 them at a later date.

13 Exhibit Number 4:

14 Copy of newsletters from the Trust that
15 were sent out to all beneficiaries who are
16 on the attached list.

17 A In the first newsletter that's in the package that I
18 gave you, it says (quoted as read):

19 "The Court will hear the application
20 January 2012, once all interested parties
21 have had an opportunity to respond."

22 Q MS. SHANNON: So this was sent to -- who
23 are these people? Who is this list of persons?

24 A This list of persons is all of the members of the
25 Sawridge First Nation. And Patrick is a member.

26 Q So this is sent to a PO box?

27 A That's right.

1 Q And I believe in your affidavit you said that you
2 sent the notice -- you say you sent the August 31st
3 order, but we've established you meant the notice --

4 A Yes, yes.

5 Q -- to an Edmonton address?

6 A That's incorrect.

7 Q Your affidavit is incorrect?

8 A Yes.

9 Q Is there anything else in your affidavit that's
10 incorrect?

11 A No.

12 Q So this was sent to a PO box address?

13 A That's right.

14 So that's the first one. The
15 second one is -- I don't know if this even applies.

16 So this second letter that
17 I'm providing you is a letter that was sent with a
18 lot more detail about how persons should proceed
19 with responding to the court application. It was
20 sent to the same notice list but not by registered
21 mail.

22 Q And the first line of this says (quoted as read):

23 "Based on extensive legal advice and
24 negotiations with the Sawridge First
25 Nation, the Sawridge Trusts trustees have
26 come to the conclusion that the provisions
27 of the two Trust documents envision that

1 all beneficiaries of the Trust must be
2 Band members."

3 A Yes.

4 Q So this is what you sent out to that list?

5 A That's right. That's right.

6 Q So it would be fair that anyone who read this who
7 didn't know much about the Sawridge Trusts would
8 believe that they had to be a Band member to apply?

9 A No. Because if you continue to read the letter, it
10 tells them how to apply for Band membership if they
11 aren't already Band members. It tells them how to
12 apply for Indian Status if they don't already have
13 Indian Status.

14 Q So it -- then they would understand they need to be
15 a Band member and have Indian Status to be
16 beneficiaries of the 1985 Trust?

17 A Yes.

18 MS. SHANNON: Can we put that in as
19 Exhibit 5.

20 Exhibit Number 5:

21 Letter that was sent to the same notice
22 list with more detail about how persons
23 should proceed with responding to the
24 court application.

25 A The third document that I'm giving you is a letter
26 that was sent out 24 November 2009 to all Trust --
27 Sawridge Trust potential beneficiaries. Again, not

1 by registered mail, but by normal mail. And it
2 would have been sent to all of the list that you
3 have.

4 Q MS. SHANNON: So this is before the order?

5 A That's right.

6 MS. SHANNON: We will enter this as
7 Exhibit 6.

8 Exhibit Number 6:

9 Letter sent out November 24, 2009, to all
10 Sawridge Trust potential beneficiaries.

11 A So starting as far back as September 2009 -- or
12 December 2009, I think that letter -- November.
13 Sorry. November 2009.

14 Everybody who we thought at
15 the time, including Patrick Twinn, who could have
16 possibly been affected, we tried to give them
17 information that we were thinking of proceeding with
18 the court application and the reasons why and
19 indicating to them that if they didn't have all
20 their ducks in a row, they should get them in a row.

21 So applying to -- at the time
22 it was Indian and Northern Affairs. Now it's
23 Indigenous and Northern Affairs Canada. Applying
24 for Indian Status if they didn't have it, applying
25 for Band membership if they didn't have it. If they
26 already had it, then they were already potential
27 beneficiaries.

1 Q MS. SHANNON: I'd like you to turn to --
2 because I think that this is actually going to
3 follow right from where we are at -- Exhibit B of
4 your affidavit.

5 A Okay.

6 Q So this is the beneficiary application form of
7 Deborah Serafinchon?

8 A Yes.

9 Q And in your affidavit you indicate that you received
10 this in response to newspaper articles; is that
11 correct?

12 A Some of it was to newspaper articles or these
13 letters that were sent out. So these letters were
14 also sent out -- I have to enter another thing. So
15 this letter was sent out 7th of April 2010. It was
16 sent out to all the First Nation Band members, but
17 it was also sent out to other potential persons.
18 This is a letter requesting that they fill in this
19 application form.

20 Q So my question was with respect to paragraph 3 of
21 your affidavit.

22 A Yes.

23 Q You've explicitly said that Ms. Serafinchon's was in
24 response to newspaper advertisements?

25 A Yes.

26 Q So we'd like an undertaking that you provide the
27 advertisement -- the newspaper advertisement.

1 A It's already been provided to the Court, so I don't
2 know if I have to provide it again.

3 MS. BONORA: It's already an exhibit in
4 these proceedings.

5 MS. SHANNON: Which exhibit is it?

6 THE WITNESS: It's undertakings --

7 MS. BONORA: Well, sorry, yeah. It's in
8 the -- I can give you the undertaking number.

9 MS. SHANNON: Perfect.

10 Q MS. SHANNON: So when did those
11 advertisements run?

12 A I don't have that information. It's in the
13 undertaking. So it would be -- I can't recall
14 exactly.

15 Q Do you recall the year?

16 A 2011, I think. Because we did this all
17 simultaneous. So we had to publish in the
18 newspapers at the same time as we had to send out
19 the registered letters, as it says in the procedural
20 order, and so we did that.

21 Q So my understanding -- I looked at a few things, and
22 I understood that these applications were in
23 response to something back in 2009 not having
24 anything to do with the order.

25 A No. They were -- well, no. That's true. That's
26 true, actually.

27 Q So why don't we go back, then, take a minute and

1 piece back.

2 A Yes.

3 Q So before you published the notice -- yeah,
4 published the notice in the advertisement for the
5 order --

6 A Yes.

7 Q -- you had published other advertisements?

8 A No. We had not published anything -- the only thing
9 we've ever published in the newspaper is the
10 court-ordered application notice. So some people
11 responded by calling the Trusts, and then they were
12 provided with a copy of the application form.

13 Q So I've seen some reference in the materials to
14 advertisements back in December 2009. Does that
15 help refresh your memory at all?

16 A It doesn't. I'm sorry.

17 Q So your evidence is that this beneficiary
18 application form --

19 A Yes.

20 Q -- was received in response to newspaper
21 advertisements in 2011?

22 A She didn't date it, so I don't know.

23 Q So we'd like an undertaking that you provide the
24 date that you received this beneficiary application
25 form.

26 A I wouldn't be able to answer that.

27 Q So you don't know when it was received?

1 A I don't know.

2 As I recall, and this is
3 vague, Deborah's application was one of the later
4 ones that we received. So there were many others
5 who applied before her.

6 Q So when you -- how did people get these beneficiary
7 application forms?

8 A I would mail them to them.

9 Q So how would you know who to mail?

10 A They would email me, phone me, send me a letter.

11 Q So how did they know that these beneficiary
12 application forms were available? Because there's
13 no mention of these in Exhibit 1.

14 A Some of them would hear about it through their
15 relatives, by reading the newspaper notice. I'd
16 need to look at the -- it's possible that there was
17 another newspaper ad, come to think of it, but I'd
18 have to look at the undertakings, because there
19 were -- the public trustee's undertakings, because
20 all of that information was included in there.

21 Q So it's possible that this relates to --

22 A A newspaper --

23 Q -- a newspaper advertisement before the August --

24 A That's right.

25 Q So newspaper -- I mean, presumably newspaper
26 advertisements prior to 2011 would have made no
27 mention of the application to vary?

1 A No. Persons who filled in this beneficiary
2 application form had no notion at the time of the
3 fact that there would be a court application. That
4 was done later, but because they had provided an
5 application, they are listed in the procedural order
6 as one of the categories of persons to whom we need
7 to provide notice.

8 Q So would you have also -- so that's -- would you
9 have also --

10 A So that's Category F, by the way.

11 Q Would you have also provided Ms. Serafinchon with
12 this January 7, 2011, letter? This is Exhibit 5.

13 A Probably, yes. Because she would have been on the
14 notification list.

15 Q Did you receive a lot of -- how many beneficiary
16 application forms do you think you received?

17 A About 120. And those are all in the public
18 trustee's undertakings as well.

19 Q Yes. I've seen a few of them in there now.

20 I understand that you
21 responded to some of these application forms?

22 A Yes. And all of the responses are also in the
23 public trustee's undertakings.

24 Q Do you recall in your responses advising that people
25 had to be members to be beneficiaries of the Trusts?

26 A According -- well, at the time -- in some cases I
27 did. It depended -- it depended, you know, because

1 the trustees were using these beneficiary
2 application forms at the time to put together a list
3 of potential beneficiaries and determine why they
4 were potential beneficiaries and under what
5 conditions under the rules of the 1985 Trust, who
6 would qualify as a potential beneficiary.

7 So it was only later that we
8 were notified or we got legal advice that in fact
9 they would have to be members.

10 Q So do you recall whether you responded to
11 Ms. Serafinchon?

12 A I have recently responded to Deborah Serafinchon
13 indicating that she has to be a member, yes.

14 Q No. I mean recently -- we're in 2016. I mean, this
15 appears to have been received sometime between 2009
16 and 2011.

17 A Yes.

18 Q Is your recent correspondence the first
19 correspondence you've had with Ms. Serafinchon?

20 A No. I've had a number of exchanges with her.

21 Q To do with her being a beneficiary?

22 A Yes.

23 Q So would those be included in the undertaking
24 responses?

25 A Most of them are. The more recent ones, no.

26 Q So we would like an undertaking that you provide any
27 confirmation -- I can't remember how we phrased the

1 last one -- received confirmation that
2 Ms. Serafinchon received the notice, that's
3 Exhibit 1 notice.

4 A Okay. It will be the same as Patrick.

5 MS. BONORA: So you're asking for the
6 registered mail receipt?

7 MS. SHANNON: Yes.

8 Undertaking Number 3:

9 Provide any confirmation that
10 Ms. Serafinchon received the notice at
11 Exhibit 1.

12 Q MS. SHANNON: And we had a bit of an issue
13 with the address for Patrick Twinn in your
14 affidavit. So just to confirm that your evidence is
15 the same, you state here that you sent the
16 August 31st order, so the notice, via registered
17 mail to Deborah Serafinchon at the address provided
18 by her in her potential beneficiary application
19 form?

20 A Yes.

21 Q Okay. So if you sent the notice in her potential
22 application form, you couldn't have received this as
23 a response to that?

24 A No.

25 Q So no change to that --

26 A No.

27 Q -- paragraph? That stays the same.

(BRIEF ADJOURNMENT)

MS. SHANNON: So we are adding as an exhibit a memorandum dated April 7th, 2010. It is unsigned and is the subject "Filling out Beneficiary Application Forms."

Exhibit Number 7:

Unsigned memorandum dated April 7, 2010, with the subject "Filling out Beneficiary Application Forms."

MS. BONORA: So the undertakings that respond to the advertisements that were answered in previous questioning of Mr. Bujold are Undertakings 20, 21, 22, 23, 24, and 25.

MS. SHANNON: Thank you for that.

Q MS. SHANNON: So I just have a few more questions.

So, Mr. Bujold, you swore this affidavit in support of the Sawridge trustees' reply brief. Is that your understanding?

A Yes, it is.

Q So you understand, then, that the trustees are taking the position that the beneficiaries or potential beneficiaries, Patrick Twinn, Shelby Twinn, and Deborah Serafinchon, should not be parties in this action?

A Yes, I do.

Q And you understand that the Sawridge trustees are

1 applying to vary the definition of the Trust?

2 A Yes, I do.

3 Q The 1985 Trust.

4 A Yes, I do.

5 Q And by definition, I'm talking about the definition
6 of "beneficiaries."

7 A That's right.

8 Q And they're trying to vary it to members, to be
9 members of the Sawridge First Nation; is that
10 correct?

11 A Yes. That's what it was originally.

12 Q So is it your understanding, then, that in doing so,
13 certain beneficiaries may no longer be
14 beneficiaries?

15 A Yes.

16 Q And so the parties whose rights are actually at
17 issue is not the trustees in this action. Does that
18 accord with your understanding?

19 A I'm not sure that I understand the question.

20 Q The trustees -- well, the trustees are
21 beneficiaries, so the beneficiaries are the ones who
22 stand to lose something in this action; does that
23 accord with your understanding?

24 A Some beneficiary -- are you qualifying it to say
25 some beneficiaries?

26 Q Some beneficiaries, yes.

27 A Some beneficiaries. Some beneficiaries -- if the

1 definition were varied, some beneficiaries could be
2 affected, yes.

3 Can I qualify that?

4 Q Sure.

5 A When I say "some beneficiaries," because we haven't
6 determined who the beneficiaries of the 1985 Trust
7 are, we don't know which of those beneficiaries
8 exactly.

9 Q So when you say you haven't determined who the
10 beneficiaries of the 1985 Trust are --

11 A Yes.

12 Q -- how did you serve the beneficiaries of the
13 1985 Trust pursuant to the August 31st order?

14 A We had a list of possible beneficiaries that was
15 developed by the trustees. So there was no -- the
16 trustees never approved a certain list. They had a
17 list of potential persons who would have qualified
18 according to the rules of the 1970s *Indian Act* as it
19 existed on the 15th day of April 1982.

20 Q So those parties would be included in the list you
21 provided me in Exhibit 2?

22 A Yes.

23 MS. SHANNON: If we can take just a short
24 break.

25 (BRIEF ADJOURNMENT)

26 Q MS. SHANNON: So I have to ask: Given the
27 extended break, I just need to confirm that you

1 didn't discuss any of this with your counsel.

2 A No.

3 Q So I just was looking at Exhibit 5.

4 A Which is what?

5 Q Sorry. Exhibit 5 is the letter dated January 7,
6 2011.

7 A Okay.

8 Q So am I correct that this letter was sent to the
9 parties that filed the beneficiary application
10 forms?

11 A Yes.

12 Q That's who received these, okay. And you state in
13 here on page 2 that (quoted as read):

14 "All parties having an interest in the
15 application --"

16 Do you see where I am?

17 A No.

18 Q If I can just point it out, it's probably going to
19 be faster. I'm in this paragraph. "All parties."

20 A This one?

21 Q Yeah. So you state (quoted as read):

22 "All parties having an interest in the
23 application to the court will be notified
24 when an application is submitted."

25 A Right.

26 Q And so that notification was the September 1st
27 notice?

1 A Yes.

2 Q There was no other --

3 A No.

4 Q Let me finish asking.

5 There was no other notice
6 that was provided?

7 A No.

8 Q So the first sentence here (quoted as read):

9 "Based on extensive legal advice and
10 negotiations with the Sawridge First
11 Nation."

12 What was the Sawridge First
13 Nation negotiating with respect to this application?
14 I'm confused by that.

15 A In the first paragraph you're referring to?

16 Q Yeah. What were you negotiating with the Sawridge
17 First Nation with respect to the beneficiaries?

18 A We were talking with them about how to go through a
19 process of determining whether these applicants were
20 potential beneficiaries. And one of the suggestions
21 that came up that we were exploring was the
22 establishment of a tribunal. And that was rejected
23 just before this January 7th letter, which is why
24 this letter was sent out.

25 So it was rejected as not
26 being possible because the Sawridge trustees have no
27 legal right to define who the members of the

1 Sawridge First Nation are. In fact, it's the other
2 way around. The Sawridge First Nation defines who
3 the beneficiaries are.

4 Q So I take it, then, that the appointing a tribunal,
5 that had been something that had been communicated
6 to at least some of the recipients of this letter
7 previously? That's why you were clarifying?

8 A It had been suggested that that was one of the
9 things that the trustee was considering.

10 MS. SHANNON: Subject to objections,
11 undertaking responses, and any further questions on
12 the exhibits received today, that concludes my
13 questioning today.

14 (PROCEEDINGS CONCLUDED

15 SUBJECT TO ABOVE COMMENTS AT 2:31 P.M.)

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INDEX

PAUL MARC BUJOLD
November 29, 2016
Our File Number 8906-2
Volume 1

(Undertakings are inserted and indexed by your court reporter as a courtesy service to be utilized at the discretion of counsel)

UNDERTAKING(S)PAGE**Undertaking Number 1:****18**

Provide the date that Mr. Bujold served the parties listed in Exhibit 2.

Undertaking Number 2:**19**

Look for the confirmation of receipt of the September 2011 notice to Patrick Twinn and provide it if found.

Undertaking Number 3:**39**

Provide any confirmation that Ms. Serafinchon received the notice at Exhibit 1.

EXHIBIT(S)PAGE**Exhibit Number 1:****11**

Form letter dated September 1, 2011, on the Sawridge Trusts' letterhead, signed by Mr. Paul Bujold as trusts administrator.

Exhibit Number 2: 14

Notice list for application for advice and
direction dated August 26, 2011.

Exhibit Number 3: 21

Sawridge Trust list of returned registered mail
starting September 14, 2011.

Exhibit Number 4: 29

Copy of newsletters from the Trust that were
sent out to all beneficiaries who are on the
attached list.

Exhibit Number 5: 31

Letter that was sent to the same notice list
with more detail about how persons should
proceed with responding to the court
application.

Exhibit Number 6: 32

Letter sent out November 24, 2009, to all
Sawridge Trust potential beneficiaries.

Exhibit Number 7: 40

Unsigned memorandum dated April 7, 2010, with
the subject "Filling out Beneficiary
Application Forms."

OBJECTIONS TO QUESTIONS

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* * * * *

Certificate of Transcript

I, Deanna Jackson, hereby certify that the foregoing pages are a true and faithful transcription of the proceedings taken down by me in shorthand and transcribed by means of a computer-aided transcription system to the best of my skill and ability.

Dated at the city of Edmonton,
Province of Alberta, this ____ day of _____, AD ____.

Original Copy Signed

Deanna Jackson, CSR(A)
Realtime Court Reporter



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