

COURT OF APPEAL OF ALBERTA

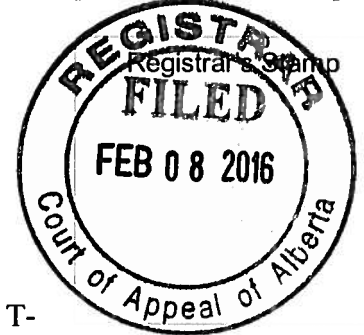
Form AP-1

[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 1603-0029AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: 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")

APPLICANT: PUBLIC TRUSTEE OF ALBERTA

STATUS ON APPEAL: Appellant

STATUS ON APPLICATION: Applicant

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

STATUS ON APPEAL: Respondents

STATUS ON APPLICATION: Respondents

RESPONDENT: SAWRIDGE INDIAN BAND NO. 19, NOW KNOWN AS
THE SAWRDIGE FIRST NATION

STATUS ON APPEAL: Respondent

STATUS ON APPLICATION: Respondent

RESPONDENT: CATHERINE TWINN, As a Trustee of the 1985 Trust

STATUS ON APPEAL: Respondent

STATUS ON APPLICATION: Respondent

DOCUMENT: **APPLICATION OF THE APPLICANT, the PUBLIC TRUSTEE OF ALBERTA, FOR A STAY PENDING APPEAL**

**APPLICANT'S (APPELLANT'S)
ADDRESS FOR SERVICE AND
CONTACT INFORMATION:**

Hutchison Law
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and

CONTACT INFORMATION OF ALL OTHER PARTIES:

Reynolds Mirth Richards & Farmer LLP Suite 3200 Manulife Place 10180 - 101 Street Edmonton, Alberta T5J 3W8	Dentons LLP Suite 2900 Manulife Place 10180 – 101 Street Edmonton, Alberta T5J 3W8
Attention: Marco Poretti Counsel for the Sawridge Trustees	Attention: Doris Bonora Counsel for the Sawridge Trustees
Phone: 780-425-9510 Fax: 780-429-3044 Email: mporetti@rmrf.com	Phone: 780-423-7100 Fax: 780-423-7276 Email: doris.bonora@dentons.com
Bryan & Company 2600 Manulife Place 10180 – 101 Street Edmonton, Alberta T5J 3Y2	McLennan Ross LLP 600 McLennan Ross Building 12220 Stony Plain Road Edmonton, Alberta T5N 3Y4
Attention: Nancy Cumming, Q.C. Solicitor for the Sawridge Trustees	Attention: Karen Platten, Q.C. Solicitor for Catherine Twinn

Phone: 780-423 5730 Fax: 780-428 6324 Email: necumming@bryanco.com	Phone: 780-482-9200 Fax: 780-482-9100 Email: kplatten@mross.com
Parlee McLaws Suite 1500 Manulife Place 10180 – 101 Street Edmonton, Alberta T5J 3W8 Attention: Edward Molstad, Q.C. Counsel for the Sawridge First Nation Phone: 780-423-8500 Fax: 780-423-2870 Email: emolstad@parlee.com	DLA Piper 1201 Scotia Tower 2 10060 Jasper Avenue Edmonton, Alberta T5J 4E5 Attention: Priscilla Kennedy Solicitors for June Kolosky and Aline Huzar Phone: 780-426-5330 Fax: 780-428-1066 Email: priscilla.kennedy@dlapiper.ca

NOTICE TO RESPONDENT(S):

RESPONDENTS:

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

STATUS ON APPEAL:

Respondents

RESPONDENT:

SAWRIDGE INDIAN BAND NO. 19, NOW KNOWN AS THE SAWRDIGE FIRST NATION

STATUS ON APPEAL:

Respondent

RESPONDENT:

CATHERINE TWINN, As a Trustee of the 1985 Trust

STATUS ON APPEAL:

Respondent

WARNING

If you do not come to Court on the date and time shown below either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (Rule 14.41 and 14.43)

NOTICE TO RESPONDENT(S):

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: February 17, 2016
Time: 9:30am
Where: Edmonton Law Courts,
1A Sir Winston Churchill Square,
Edmonton, AB
T5J 0R2
Before: Single Judge of the Court (Rule 14.37)

Nature of Application and Relief Sought:

1. The Applicant seeks a stay in relation to the steps required by the December 17, 2015 Reasons for Judgment (“the Judgment Under Appeal”) and in relation to application of the revised terms of the OPGT’s appointment in this matter as set out in the Judgment Under Appeal, pending outcome of the within appeal;
2. Such further and other relief as Counsel may request and this Honourable Court may order.

Grounds for making this application:

1. Appeal No. 1603-0029AC raises serious issues which affect the interests of the minor beneficiaries and potential minor beneficiaries (“the Affected Minors”);
2. The Judgment Under Appeal contemplates steps which, if undertaken under the revised terms of the OPGT’s appointment and prior to the outcome of the appeal, will cause irreparable harm to the interests of the Affected Minors and to the public interests operative in this matter;
3. The balance of convenience heavily favors the Affected Minors. Even if all other factors weigh equally, the status quo in this matter should be preserved until the appeal is heard and decided; and
4. Such further and other grounds as Counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

1. Affidavit of Roman Bombak, dated February 8, 2016
2. Reasons for Judgment of Justice D.R.G. Thomas, dated December 17, 2015
3. 1985 Sawridge Trust v. Alberta (Public Trustee), 2012 ABQB 365, Reasons for Judgment of Justice D.R.G. Thomas in Court of Queen's Bench Action No. 1103 14112
4. 1985 Sawridge Trust v Alberta (Public Trustee), 2013 ABCA 226, Reasons for Judgement on Appeal of the Judgment by Justice D.R.G. Thomas in Court of Queen's Bench Action No. 1103 14112
5. Such further and other materials as Counsel may advise and this Honourable Court may allow.

Applicable Acts, regulations and rules:

1. *Alberta Rules of Court* 14.37, 14.40, 14.48(b), 14.53 and 14.68
2. *Public Trustee Act*, S.A. 2004, c. P-44.1 s. 6
3. Such further and other materials as Counsel may advise and this Honourable Court may allow.