

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
 (The "1985 SAWRIDGE TRUST")

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

15 -----
 16 QUESTIONING ON AFFIDAVIT
 17 OF
 18 ELIZABETH POITRAS
 19 -----

20
 21 M.S. Poretti, Esq. For the Applicants
 22 Ms. J.L. Hutchison For the Public Trustee
 23
 24 Susan Stelter Court Reporter

25
 26 Edmonton, Alberta

27 9 April, 2015

1 ELIZABETH POITRAS, SWORN AT 10:50 A.M., QUESTIONED BY
2 MR. PORETTI:

3 Q MR. PORETTI: Good morning, Mrs. Poitras.

4 A Good morning Mr. Poretti.

5 MR. PORETTI: We are going to deal with some
6 preliminary matters before we get into the questioning.

7 Pursuant to our off-the-record discussion we are
8 going to mark as the next exhibit for identification a
9 letter dated April 7, 2015 from Mr. Glancy to Hutchison
10 Law.

11 EXHIBIT NO. I FOR IDENTIFICATION:
12 LETTER DATED APRIL 7, 2015 FROM MR.
13 GLANCY TO HUTCHISON LAW.

14 MR. PORETTI: Ms. Hutchison, the first order of
15 business will be to deal with the documents that are
16 marked without prejudice. And I confirm that during
17 our questioning today I will be marking a number of
18 these documents for identification purposes on the
19 following basis:

20 I will not be asking any questions of the witness
21 in respect of these documents. Further, I will not
22 file any of these documents with the court without
23 first receiving your agreement or a court order
24 allowing us to do so. Our expectation at this time is
25 that there will not be a need to present the without
26  prejudice documents to the court, however we reserve
27 our right to bring such an application if necessary.

1 So that is how we intend to proceed on the without
2 prejudice documents.

3 With respect to Mr. Glancy's letter, which has been
4 marked as Exhibit I for Identification, he raises an
5 issue relating to the implied undertaking of
6 confidentiality, and I understand that you would like
7 to put your position on the record in relation to how
8 we are going to proceed today.

9 MS. HUTCHISON: Thank you, Mr. Poretti. And so
10 just to be clear, we have agreed to your proposal on
11 how to deal with the without prejudice documents from
12 the collection of documents that you provided to us
13 with a letter dated July 7th, 2014. They will be
14 marked as exhibits for identification only and won't be
15 examined on, and of course we both may have future
16 positions to take up with the court about whether or
17 not they actually go before the court.

18 In relation to Mr. Glancy's letter and how that
19 pertains to the other documents in the collection that
20 are not marked without prejudice, Mr. Glancy, as
21 counsel in the process of litigation that these
22 documents relate to, has flagged a concern about
23 potential breach of implied undertaking of
24 confidentiality.

25 He has also provided some information that tells us
26 that, of course, these are not the only documents that
27 were produced in the Poitras litigation. And so on the

1 basis of both of those items Mr. Glancy has flagged I
2 have advised you that the public trustee does have some
3 concerns about whether or not these documents are being
4 produced in breach of an implied undertaking of
5 confidentiality in another proceeding. But possibly,
6 even more importantly, whether or not there is an issue
7 about completeness of production or full and fair
8 production of documentation, really from Sawridge First
9 Nation.

10 And you and I have had quite extensive discussions
11 now off the record, Mr. Poretti. I have indicated that
12 rather than interrupt you as much as I had to at our
13 last questioning, I'm content for you to examine Ms.
14 Poitras on these documents that you have given me that
15 are not without prejudice under reserve of our ability
16 to bring the matter before the court in terms of
17 whether there is an issue about breach of implied
18 undertaking of confidentiality with these undertakings,
19 or alternatively, whether there is a need to seek more
20 fulsome production of documents I suspect from Sawridge
21 First Nation, Mr. Poretti, but potentially from your
22 client as well. Does that fairly summarize our
23 discussion?

24 MR. PORETTI: Yes. And so now I am going to just
25 make some comments on the record in relation to
26 Mr. Glancy's letter. And specifically, Mr. Glancy
27 mentions in paragraph numbered 1 of his letter, which

1 is Exhibit I for Identification, that all but six of
2 the 40 documents that we have provided to you are
3 contained in an Affidavit of Documents sworn by Mrs.
4 Poitras on December 5, 1998, a copy of which was
5 provided to counsel for the Sawridge Band in Action
6 T-2655-89. And Mr. Glancy concludes that those
7 documents are subject to an implied undertaking of
8 confidentiality.

9 The 40 documents that were provided to you are
10 original documents that did not come from the Affidavit
11 of Documents referred to by Mr. Glancy. These are the
12 original documents prior to any of them ever being
13 produced in any litigation. It is our position that
14 there is no implied undertaking as a result. The fact
15 that some of these documents may have been produced in
16 another litigation does not cloak the document with
17 some sort of a protection based on the implied
18 undertaking of confidentiality. The documents, if they
19 are in their original form, otherwise relevant or
20 producible, can be used by anyone in any litigation in
21 our respectful submission.

22 Contrast that to a situation where a party was able
23 to obtain documents from a production, documents that
24 have been produced in some other litigation, and that
25 is the only way that that party has been able to come
26 into possession of these documents, then I think
27 clearly the implied undertaking rule prima facie

1 applies.

2 I put that on the record as much for Mr. Glancy's
3 benefit. He may not be aware that these documents came
4 into our possession independently of them being
5 produced in another litigation, and as well, I can
6 state on the record that I put my mind to the implied
7 undertaking issue prior to making use of these
8 documents, and prior to providing them to you. And I
9 am confident that there is no issue.

10 Now I am going to, given your position that you are
11 prepared to proceed on --

12 MS. HUTCHISON: Mr. Poretti, may I interrupt for
13 one brief moment. I just wanted to confirm that I am
14 at liberty to pass on the transcript to Mr. Glancy in
15 regards to this discussion, so in the event that it
16 affects his position as set out in the letter.

17 MR. PORETTI: Yes.

18 MS. HUTCHISON: Thank you.

19 MR. PORETTI: Thank you. I think rather than
20 comment on some of the other matters raised in
21 Mr. Glancy's letter, I think given the position that
22 the public trustee is taking today, which effectively
23 is you are going to allow us to proceed with the
24 questioning under reserve of certain rights that you
25 may have in respect of the implied undertaking issue,
26 and any other issues that you have already put on the
27 record, I think that I am going to leave it at that for

1 now and hopefully we can resolve these document
2 production issues short of having any application to
3 the court. And I am also more than happy to speak to
4 Mr. Glancy about any of his concerns at any time. So
5 obviously he will see that in the transcript when he
6 sees it.

7 So unless you had anything else, Ms. Hutchison, I
8 think we are ready to proceed with the questioning.

9 MS. HUTCHISON: I think we are ready to proceed,
10 Mr. Poretti. Thank you very much for taking the time
11 to set all that out on the record and clarify how we
12 are proceeding today.

13 MR. PORETTI: Thank you.

14 Q MR. PORETTI: Good morning again, Mrs. Poitras.

15 A Good morning.

16 Q You swore to tell the truth today?

17 A Yes, I did.

18 Q What steps have you taken to prepare for today's
19 questioning?

20 A I reviewed these documents.

21 Q And by "these documents", are you referring to your
22 Affidavit?

23 A Affidavit.

24 Q And a series of documents that were provided to your
25 counsel under cover of my letter dated July 7, 2014,
26 correct?

27 A Yes.

1 Q And also you reviewed your transcript from your
2 questioning that took place on May 29, 2014?

3 A Yes.

4 Q Is there anything else that you reviewed?

5 A No.

6 Q Did you have any discussions with anyone other than
7 your legal counsel?

8 A No.

9 Q Have you taken any steps to answer any of the
10 undertakings that you gave at your previous questioning
11 on May 29, 2014?

12 A I left that to my counsel.

13 Q Have you provided any, or have you sought out any
14 documentation that you were asked to --

15 A Personally, no.

16 MS. HUTCHISON: And Mr. Poretti, if I can be of
17 assistance. I have had some discussions with
18 Mr. Glancy about that, and what he might be able to
19 provide to us to assist.

20 Q MR. PORETTI: Mrs. Poitras, I am showing you a
21 document dated October 3, 1985. Do you recall seeing
22 that document?

23 A I wrote that document, sir.

24 Q Yes. And you recall sending it at the time?

25 A Yes.

26 Q Can we mark that as the next exhibit, please.

27 EXHIBIT NO. 5:

1 DOCUMENT DATED OCTOBER 3, 1985 FROM
2 ELIZABETH POITRAS.

3 Q MR. PORETTI: Mrs. Poitras, I am showing you a
4 document that was marked at your last questioning as
5 Exhibit H For Identification, and that is where we left
6 off at your last questioning. And I believe at the
7 time you did not recall seeing this letter. Is that
8 still your recollection?

9 A It is still my recollection.

10 Q Mr. Glancy was your counsel at that time, however?

11 A Yes.

12 Q And I take it that you have no reason to believe that
13 this letter was not actually sent by Mr. Glancy, is
14 that fair?

15 A Sent to me?

16 Q No, to be clear, so the letter was from Mr. Glancy
17 addressed to a Mr. Morgan. You have no reason to
18 believe that this letter was not actually sent?

19 A I don't know how to answer that, because I believe
20 Mr. Glancy sent it.

21 Q And that is what I meant. It is an awkward question.
22 The reason that I am asking is -- let's go off the
23 record.

24 (Discussion off the record.)

25 Q MR. PORETTI: You have had an opportunity to
26 review Exhibit H For Identification, and you will note
27 that Mr. Glancy indicates in the middle of the

1 paragraph, the first paragraph, that -- well, initially
2 he indicates that the original document sent to me by
3 Mr. Cullity was sent as a draft document and not for my
4 client's use. Then a little bit later, in any event,
5 my position is that the document now forwarded to me as
6 an application form is more a barrier to application
7 than anything that would facilitate it.

8 Is it your recollection that you initially received
9 a draft application form to consider in respect of your
10 membership application?

11 A It was sent to Mr. Glancy.

12 Q And do you recall whether there was initially a draft
13 application form and then, if I can refer to it as a
14 final application form around this time, June of 1992?

15 A I cannot recollect.

16 Q In any event, it is fair to say that you would have
17 received some sort of application form at least by June
18 of 1992, correct?

19 A I believe so, yes.

20 Q And as of June of 1992, at that point in time you were
21 refusing to fill out the application form as at that
22 point in time, correct?

23 A I honestly cannot recall what year, what month, but I
24 did refuse to fill out the application form. But I
25 can't tell you what year, what month.

26 Q Is it your understanding that the first application
27 form that you filled out was in 1994?

1 A Yes.

2 Q Mrs. Poitras, I am showing you a document that is
3 entitled Transcription of Elizabeth Poitras, CBC Radio,
4 September 2, 1992. Do you recall giving an interview
5 to the CBC radio on or about September 2, 1992?

6 A I do recall, yes.

7 Q Have you ever seen this transcription?

8 A No.

9 Q You have had a chance to review it?

10 A I will correct that. I saw it last night.

11 Q Fair enough. Prior to last night you had not seen it?

12 A Yes.

13 Q You have had a chance to review it now?

14 A Yes.

15 Q And does it accurately reflect the discussion that you
16 had at that time, as best you can tell?

17 A 1992 is a long, long time ago. I can't say word for
18 word that this is right, but the drift of it is
19 probably right.

20 Q So at the bottom of the first page there is a reference
21 to a statement where you say, or where the transcript
22 indicates, "So what I am trying to do is get back into
23 my band, my former band, which is the Sawridge Band,
24 and last year or the year before he did give us, give
25 my lawyer a 74-page application form."

26 So is it your recollection that either in 1991 or
27 1990 your lawyer received a 74-page application form?

1 A Yes.

2 Q And then you go on to say, and I am on page 2 now, the
3 announcer says "74 pages"? And you say "yes". "And
4 then we got, last year I think it was, we got a 43-page
5 application form."

6 Is it your recollection that in or around 1991 that
7 you would have received a 43-page application form?

8 A Again, I can't remember the year, but I guess if I said
9 it, I said it. I don't believe there were dates
10 stamped on these application forms, so I can't even go
11 back to make a reference as to when they were given
12 out. But I said it, I said it.

13 Q You indicate a few lines down that you had a severe
14 problem with the form and you refused to fill it out.
15 You recall that that, in fact, was the case, correct?

16 A Yes.

17 Q And a few paragraphs later you indicate, in relation to
18 an essay that was required on your spiritual beliefs,
19 you concluded, or you indicated that you refused to do
20 that. You say, "It is not that I couldn't, I just
21 don't want to." And that was the position that you
22 took in or around 1992, that you simply didn't want to
23 fill out that information on the application form,
24 correct?

25 A Yes, sir.

26 Q Could we mark this as the next exhibit.

27

EXHIBIT NO. 6:

1 DOCUMENT ENTITLED TRANSCRIPTION OF
2 ELIZABETH POITRAS CBC RADIO - SEPTEMBER
3 2, 1992.

4 Q MR. PORETTI: Mrs. Poitras, I'm showing you a
5 letter dated April 14, 1993 from Terry Glancy to Mr.
6 Mitchell. Do you recall seeing this letter?

7 A You know, there is so much to recall. But yes, I would
8 say yes.

9 Q And do I understand that Mr. Glancy was your counsel
10 from at least the date of this letter to 1990 -- at
11 least until 1998 or 1999?

12 A Yes. He still is.

13 Q He still is. So throughout this period of time that we
14 are looking at he has been your counsel?

15 A What years did you say?

16 Q Well, this letter in particular is dated 1993?

17 A Yes.

18 Q And I think that we saw some earlier letters, I would
19 have to go back and check, but -- just give me a
20 second.

21 MS. HUTCHISON: Just off the record.

22 (Discussion off the Record.)

23 Q MR. PORETTI: So Mrs. Poitras, it would appear
24 from looking at some of the documents that have been
25 marked and other documents that you have been provided
26 for your review, that Mr. Glancy has been your counsel
27 in respect of I will call it the membership issue and

1 other issues since 1988. Is that fair?

2 MS. HUTCHISON: Mr. Poretti, I'm just putting
3 Exhibit C for Identification in front of Ms. Poitras,
4 the document that we were looking at off the record.

5 MR. PORETTI: Yes. Thank you.

6 A Yes.

7 Q MR. PORETTI: Can we mark the April 14, 1993
8 letter as the next exhibit.

9 MS. HUTCHISON: Yes.

10 EXHIBIT NO. 7:
11 LETTER DATED APRIL 14, 1993 FROM MR.
12 GLANCY TO MR. MITCHELL.

13 MR. PORETTI: Mrs. Poitras, if you take a look at
14 the bottom paragraph of Exhibit 7, or the second-last
15 paragraph, actually, you will see Mr. Glancy indicates
16 that he would be preparing the necessary form of order
17 for the consent of Mr. Mitchell relating to an
18 agreement for the processing of your application. And
19 I am showing you now an order that is dated January 25,
20 1994. And you will see that it would appear that the
21 parties have agreed to this form of order whereby upon
22 receipt of your application for membership the
23 application would be processed within a period of 60
24 days. Do you recall that taking place, or at least the
25 agreement that this process would be put in place at
26 that time?

27 A Yes, I do.

1 Q And, in fact, you did submit your application sometime
2 later in 1994, correct?

3 A Yes, I did.

4 Q Thank you. Could we mark this as the next exhibit.

5 MS. HUTCHISON: I don't have objections, Mr.
6 Poretti. I'm not sure if the witness said she
7 recognizes it, but it is a noncontentious document so I
8 have no concerns about that.

9 MR. PORETTI: Thank you.

10 EXHIBIT NO. 8:

11 ORDER DATED JANUARY 25, 1994.

12 Q MR. PORETTI: I am showing you a letter dated
13 March 21, 1994 addressed to Mr. Glancy from
14 Mr. McKinney. Do you recall seeing this letter?

15 A I don't recall.

16 Q Can we mark this for identification purposes?

17 MS. HUTCHISON: Yes.

18 EXHIBIT NO. J FOR IDENTIFICATION:
19 LETTER DATED MARCH 21, 1994 FROM MR.
20 MCKINNEY TO MR. GLANCY.

21 Q MR. PORETTI: Mrs. Poitras, if you take a look at
22 the second paragraph you will note that Mr. McKinney
23 indicates that he is returning the application so that
24 you can complete it and sign it. And then the
25 following paragraph Mr. McKinney indicates, "We wish to
26 point out that the application contains responses which
27 are nonresponsive, argumentative, and adversarial." It

1 indicates that the responses should be corrected prior
2 to placing the application before the council, and then
3 he provides some examples.

4 And then on the next page, the second to last
5 paragraph, Mr. McKinney concludes that, "We also note
6 that none of the supporting documentation or references
7 were attached. Once the application is completed we
8 will process it as quickly as possible. It should be
9 noted that council will likely require your client to
10 attend for interviews."

11 Do you recall Sawridge taking this position as it
12 related to the application that you submitted in 1994?

13 A I do recall my counsel advised me of it. Terry Glancy
14 told me about it.

15 Q The next letter that I am showing you is a letter dated
16 March 20, 1995. And do you recall seeing this letter?

17 A I don't know how to answer this because I did all of
18 this to comply with the March the 21st, 1994
19 requirements of Mr. McKinney, so I did complete an
20 application form and I put all of the documents
21 together. But then my lawyer sent it and attached this
22 letter to my application. So I did not see the letter,
23 but I know it went in.

24 Q What was the last thing that you said?

25 A But I knew he sent something to cover the application
26 form and the attachments to the application form.

27 Q Can we mark this as an exhibit, whether for

1 identification or --

2 MS. HUTCHISON: I am agreeable to it being marked
3 as an exhibit, Mr. Poretti.

4 MR. PORETTI: D-9, I believe.

5 EXHIBIT NO. 9:

6 LETTER DATED MARCH 20, 1994 FROM MR.
7 GLANCY TO MR. MCKINNEY.

8 Q MR. PORETTI: Mrs. Poitras, I think you mentioned
9 as the reporter was marking the exhibit something along
10 the lines of 1994 and they still haven't processed it.
11 You are referring, I take it, to the application that
12 you have provided to the Sawridge First Nation in 1994,
13 correct?

14 A M-hm, yes.

15 Q Now we are going to go through some documents in
16 respect of that application that you submitted, but I
17 take it that you would agree that in 2003, pursuant to
18 the court order, you became a member of the Sawridge
19 First Nation, correct?

20 A That is correct.

21 Q Now going back to Exhibit D-9 you mentioned that while
22 you weren't sure that you had seen the actual letter,
23 the enclosures that are identified in the letter such
24 as the executed application, the photocopy of the birth
25 certificate and so on, these are information or
26 documents that you provided to your counsel, correct?

27 A Yes.

1 Q And I note that -- and I think you indicated that this
2 was in response to the March 21, 1994 letter which has
3 been marked as Exhibit J For Identification, correct?
4 That is this letter here?

5 A Yes.

6 Q I think you mentioned that the March 20, 1995 response
7 was a response to that March 21, 1994 letter, correct?

8 A Yeah, that is a year later.

9 Q Right. And do you recall why it took you one year to
10 provide this information to the Sawridge First Nation?

11 A I don't recall.

12 Q The last paragraph in Exhibit 9, which is the March 20,
13 1995 letter, indicates that council will wish to meet
14 with Mrs. Poitras and Mr. Glancy indicates could you
15 please contact my office and I will make the necessary
16 arrangements for her attendance.

17 Do you recall discussions at that time that
18 Sawridge council, C-O-U-N-C-I-L, wanted to meet with
19 you to discuss your application form?

20 A No, I don't recall.

21 Q I am showing you a document dated April 19, 1995
22 addressed to Mr. Glancy from Mr. McKinney. Do you
23 recall seeing this document?

24 A I don't recall seeing that, and again, that is a whole
25 year after the other application form went in.

26 Q Can we mark this as an exhibit for identification,
27 please.

1 MS. HUTCHISON: Yes.

2 EXHIBIT NO. K FOR IDENTIFICATION:
3 LETTER DATED APRIL 19, 1995 FROM MR.
4 MCKINNEY TO MR. GLANCY.

5 Q MR. PORETTI: You will note in Exhibit K for
6 Identification the letter indicates that Sawridge would
7 be proceeding to review the information and present it
8 to the band council for their consideration.

9 Do you recall being advised at that time, or around
10 that time, that the information you had provided
11 through your counsel was going to be considered by
12 Sawridge Band Council?

13 A I don't recall that.

14 Q I am showing you a letter dated April 26, 1995. Do you
15 recall seeing this letter?

16 A I don't recall seeing this letter, but I know that
17 Mr. Glancy had communicated with me about meeting with
18 the Sawridge Band. But I don't recall this letter.

19 Q Can we mark this as the next exhibit?

20 MS. HUTCHISON: Yes, the witness indicated that she
21 has knowledge of the topic, so I think that is
22 sufficient.

23 MR. PORETTI: D-10.

24 EXHIBIT NO. 10:
25 LETTER DATED APRIL 26, 1995 FROM MR.
26 MCKINNEY TO MR. GLANCY.

27 Q MR. PORETTI: Exhibit D-10 indicates that the

1 Sawridge Band Council would like to meet with you for
2 an interview, and I think you indicated that you recall
3 arrangements that were being made to that effect; is
4 that correct?

5 A Yes.

6 Q And I thought earlier when we were looking at Exhibit
7 D-9, take a look at Exhibit D-9, that is the March 20,
8 1995 letter, and the last paragraph that indicates that
9 council would like to meet with you. I thought that
10 you had indicated that you don't recall that being the
11 case. Am I mistaken on that?

12 A March the 20th, 1995?

13 Q Yes.

14 A And which other one are you referring to, April 26th,
15 1995?

16 Q Yes.

17 A And your question was?

18 Q As I understand your evidence you, with respect to
19 Exhibit D-10, which is the April 26, 1995 letter, you
20 recall that the Sawridge Band Council wanted to arrange
21 an interview with you, correct?

22 A They didn't correspond directly with me. They
23 corresponded with my lawyer.

24 Q Fair enough. But my understanding of your evidence was
25 that you recall that they wished to have an interview
26 with you as part of the process, correct?

27 A I can't answer that. I can't remember.

1 Q I thought that you had mentioned a few minutes ago that
2 you did recall that that was something that band
3 council wanted to do. Do you not recall that now?

4 A I am getting really confused. All that I can say is
5 they delayed reviewing my application in any way that
6 they could.

7 Q Let me stop you there because I am not asking you
8 whether they delayed anything.

9 If you are confused, please take your time to look
10 at the documents, first of all.

11 A Okay.

12 Q And I know that it is a long time ago, Mrs. Poitras.
13 So please take your time to refresh your memory. Why
14 don't we start with this. Exhibit D-10 indicates that,
15 and this is a letter from Mr. McKinney to Mr. Glancy,
16 and it indicates that they would like to know when you
17 are available for an interview.

18 Do you recall being made aware at the time, whether
19 through Mr. Glancy or otherwise, that band council
20 wanted to interview you in respect of your application?

21 MS. HUTCHISON: Just to be clear, Mr. Poretti, you
22 are asking about at some time at April 26th, 1995 or
23 after?

24 MR. PORETTI: Or thereabouts. Any time after
25 1995. I mean that is 20 years ago, and I'm not
26 expecting the witness to remember by, you know, by week
27 or month or day.

1 Q MR. PORETTI: But around that time, April 1995 or
2 thereabouts, do you recall that the Sawridge First
3 Nation wanted to interview you in respect of your
4 application form?

5 A I know that they had stated that they would like to
6 meet with me. And I know that Mr. Glancy wrote them a
7 letter, and this April 26th is a response to
8 Mr. Glancy's letter that yeah, they will -- we can set
9 up a meeting. And that is all that I can recall.

10 Q Okay. So you recall that that is what the council
11 wanted to do? They wanted to interview you, correct?

12 A Not the council. Mr. McKinney is the executive
13 director. He is the one that is organizing. He wants
14 to organize a meeting of the council for the interview.

15 Q Yes, right. The Sawridge First Nation Council,
16 C-O-U-N-C-I-L, wanted to interview you in relation to
17 your membership application?

18 A It didn't say want to interview me. It says he is
19 going to organize a meeting for the interview.

20 Q And I am not --

21 A It is us asking to see if we could get an interview.
22 So he is responding saying that he will organize a
23 meeting for the interview.

24 Q And just to be clear, Mrs. Poitras, I'm not asking you
25 to interpret the letter. What I am trying to do --

26 A Okay. That is how I read it.

27 Q Just let me finish, please, so that we are not talking

1 over each other so the court reporter can get our
2 answers.

3 A Okay.

4 Q I'm not asking you to interpret the letter. I am
5 putting some documents before you to help you refresh
6 your memory more than anything.

7 A Okay.

8 Q What I am asking you for if your memory is today that
9 around April of 1995 Sawridge council wanted to
10 interview you in respect of your membership
11 application, correct?

12 A In 1995 I don't know if they wanted to. Mr. McKinney
13 was going to organize for the interview.

14 Q And you were certainly advised through your counsel
15 that they wanted to organize this, correct?

16 A No, my counsel wrote to Sawridge to ask if we can have
17 the interview.

18 Q So your recollection is that --

19 A Mr. Glancy wrote the letter.

20 Q Just let me finish, please. Your recollection is that
21 Mr. Glancy initiated the interview; is that correct?

22 A According to this letter. Can I read it, please?

23 Q Yes.

24 A "Further to your letter of March 20th, 1995", so he is
25 referring to a letter that Mr. Glancy wrote, "can you
26 please advise us of the date when Mrs. Poitras would be
27 available for an interview."

1 So I don't read it as the council wanting to
2 interview me.

3 Q Well, maybe we could go back to Exhibit J For
4 Identification. And you will recall taking a look at
5 that letter of March 21, 1994.

6 A Yes.

7 Q So this was the response by Sawridge to your
8 application that was provided, and we looked at that a
9 few minutes ago. If you look at page 2, the final
10 paragraph on page 2, Mr. McKinney writes, "It should be
11 noted that the council will likely require your client
12 to attend for interviews."

13 And all I am trying to get at is whether you have a
14 recollection that Sawridge council wanted to interview
15 you in relation to your application for membership?

16 MS. HUTCHISON: But, Mr. Poretti, with respect you
17 asked that question repeatedly. She answered it
18 repeatedly. You are trying to get an admission that
19 they wanted to do it. She has answered that question.
20 I mean if you want to turn her to the other phrasing in
21 the document, that is fair. But she has responded to
22 your repeated questions now about her knowledge about
23 whether band council wanted to interview her. And I
24 think that that is where you are getting hung up.

25 MR. PORETTI: Well, with respect, I have asked
26 her and it took her a while to acknowledge that there
27 was an interview that was going to be arranged. I

1 believe her evidence has been inconsistent from her
2 recollection in relation to Exhibit D-9 and Exhibit
3 D-10 but the record will show whether that is the case.
4 But what I am following up on now is her -- is the
5 witness's evidence that it was her counsel, Mr. Glancy,
6 that initiated the interview. And so --

7 MS. HUTCHISON: That is a fair question.

8 MR. PORETTI: That is why I am taking her back to
9 the March 21, 1994 letter to see if that refreshes her
10 memory. So I don't think I am asking the same question
11 over and over again. I'm following up on her position
12 that it is Mr. Glancy that initiated this interview
13 process.

14 MS. HUTCHISON: That is a fair question. The
15 witness has been asked and answered whether she recalls
16 band council wanting to interview her. Your other line
17 of inquiry is completely appropriate. You haven't
18 exhausted it, so please proceed.

19 Q MR. PORETTI: Mrs. Poitras, with respect to
20 Exhibit J for Identification, that is the letter you
21 have before you which is the March 21, 1994 letter, you
22 will see that Mr. McKinney indicates that it is likely
23 that council, Sawridge council will require your client
24 to attend for interviews. Is it your recollection that
25 Sawridge council requested that you attend for
26 interviews?

27 A Again, I don't know how to answer that because it says,

1 "It should be noted that the council will likely
2 require your client to attend for interviews."

3 Having read that now, and Mr. Glancy discussing
4 with me my availability for interviews after March
5 21st, 1994, or at any time, I was available for any
6 interview.

7 Q And is it your recollection that -- that is not what I
8 asked you. My question was simply is it your
9 recollection that Sawridge Council wished to interview
10 you? That is the question. Is that your recollection?

11 A No, that is not. I don't recall that.

12 (Questioning adjourned.)

13 (Questioning resumed.)

14 Q MR. PORETTI: Mrs. Poitras, I am showing you a
15 letter dated May 8, 1995 from Mr. Glancy. And the
16 letter indicates that you had asked that Mr. Glancy
17 attend with you for your meeting with band council. Do
18 you recall wishing that, or asking Mr. Glancy to be
19 present for that?

20 MS. HUTCHISON: Objection, Mr. Poretti. That is
21 privileged. Her instructions to counsel are not open
22 for examination.

23 MR. PORETTI: Well, to the extent that there is
24 any privilege it has been waived by Mr. Glancy advising
25 Mr. McKinney that that is what Ms. Poitras asked.

26 MS. HUTCHISON: You can ask her what the letter
27 says. You cannot ask her what she instructed her

1 counsel to do.

2 MR. PORETTI: I disagree, but we will move on.

3 Q MR. PORETTI: Do you recall seeing this letter,
4 Mrs. Poitras?

5 A No, I don't.

6 Q Can we mark this as an exhibit for identification,
7 please.

8 MS. HUTCHISON: Yes.

9 EXHIBIT NO. L FOR IDENTIFICATION:
10 LETTER DATED MAY 8, 1995 FROM MR. GLANCY
11 TO MR. MCKINNEY.

12 Q MR. PORETTI: Mrs. Poitras, I'm showing you a
13 letter dated May 12, 1995. Do you recall seeing this
14 letter?

15 A Actually I don't recall seeing this letter.

16 Q Do not?

17 A No.

18 Q Can we mark this as an exhibit for identification,
19 purposes, Exhibit M.

20 A I don't know how to answer these, because I did see it
21 last night if it is in that, but I don't -- I didn't
22 see it before that.

23 Q That is fine.

24 EXHIBIT NO. M FOR IDENTIFICATION:
25 LETTER DATED MAY 12, 1995 FROM MR.
26 MCKINNEY TO MR. GLANCY.

27 Q MR. PORETTI: Mrs. Poitras, if you could take a

1 look at Exhibit M For Identification, which is the May
2 12, 1995 letter. And you will see in the first
3 paragraph Mr. McKinney indicates that he has now had a
4 chance to review your application form. Mr. McKinney
5 states that there are many questions which were either
6 not answered or where the answer indicates that the
7 applicant doesn't have the information. We also note
8 that several items of documentation were not included.
9 As such we are treating this application as incomplete.

10 Do you recall that the Sawridge First Nation was
11 taking the position in or around May 1995 that your
12 application was incomplete?

13 A I do recall that they did say that it was incomplete.
14 And again, I can't remember what day it was. But it
15 seems strange that in March they wanted to interview me
16 based on my application, and that in there they said it
17 is incomplete.

18 Q Let's talk about that. If you take a look at the next
19 paragraph in Exhibit M For Identification Mr. McKinney
20 indicates to help expedite the completion of the
21 application they have requested your file from Indian
22 Affairs, and once we receive the information we will
23 set up the interview. Hopefully between these two
24 sources we will have enough information to
25 satisfactorily complete the application.

26 So do you recall that despite the Sawridge First
27 Nation taking the position that your application was

1 incomplete, they were still prepared to interview you
2 and review other documentation in an effort to process
3 your application?

4 A They weren't ready to interview me until they got the
5 file from Indian Affairs.

6 Q Yes.

7 A So it was dependent on this file.

8 Q Right. So they wanted to get the file first and then
9 interview you after they got the file, correct?

10 A Yes.

11 Q Okay. I am showing you a letter dated May 30, 1995
12 from Mr. McKinney to Mr. Glancy. And you will see in
13 the paragraph -- first of all, do you recall seeing
14 this letter?

15 MS. HUTCHISON: Take a minute to read them.

16 A This is May 30.

17 Q MR. PORETTI: May 30, 1995.

18 A I don't recall seeing the letter.

19 Q Can we mark that as Exhibit N for Identification,
20 please.

21 MS. HUTCHISON: Yes.

22 EXHIBIT NO. N FOR IDENTIFICATION:
23 LETTER DATED MAY 30, 1995 FROM MR.
24 MCKINNEY TO MR. GLANCY.

25 Q MR. PORETTI: And you will see, Mrs. Poitras, on
26 the first page, paragraph number 2, Mr. McKinney
27 indicates that they have now received the file from

1 Department of Indian and Northern Affairs. And then
2 over to the second page he indicates that there are
3 some conflicting commitments so they are going to set
4 up the meeting at some time in the future. In the
5 meantime they are going to review the documents
6 received. Do you see that?

7 A I see that.

8 Q I am going to show you a document dated June 15, 1995,
9 and this is a letter from Mr. Glancy. You were copied
10 on this letter, if you could just take a moment to take
11 a look at the letter and advise whether you recall
12 seeing this letter?

13 A Is there a question?

14 Q Do you recall receiving a copy of this letter from
15 Mr. Glancy?

16 A I don't recall receiving it, but I must have because it
17 is copied to me.

18 Q You have no reason to believe that you would not have
19 received this letter, is that fair?

20 A Fair.

21 Q When Mr. Glancy showed that he copied you on a letter
22 typically you would have received that?

23 A Yes.

24 Q Can we mark this as the next exhibit?

25 MS. HUTCHISON: Yes.

26 MR. PORETTI: D-11, I believe.

27 EXHIBIT NO. 11:

1 LETTER DATED JUNE 15, 1995 FROM MR.
2 GLANCY TO MR. MCKINNEY.

3 Q MR. PORETTI: And you will see at the bottom of
4 the page of Exhibit D-11 that Mr. Glancy indicates that
5 he is looking forward to having a meeting set up and
6 attending with you at that meeting. Do you see that?

7 A Yes.

8 Q And then the next letter that I am showing you is dated
9 July 11th, 1995, which is also a letter from Mr. Glancy
10 which you have been copied on. Do you recall receiving
11 this letter?

12 A Yes.

13 Q And if we could mark that as Exhibit D-12, please?

14 MS. HUTCHISON: Yes.

15 EXHIBIT NO. 12:
16 LETTER DATED JULY 11, 1995 FROM MR.
17 GLANCY TO MR. MCKINNEY.

18 Q MR. PORETTI: With respect to D-12, do you recall
19 Chief Twinn contacting you regarding setting up a
20 possible meeting around that time?

21 A I can't recall.

22 Q And I am showing you a document dated December 20, 1995
23 from Mr. Glancy to Mr. McKinney that you were copied
24 on. Do you recall receiving a copy of this letter?

25 A Yes, I do.

26 Q Could we mark that as Exhibit D-13, please.

27 MS. HUTCHISON: Yes.

1 EXHIBIT NO. 13:
2 LETTER DATED DECEMBER 20, 1995 FROM MR.
3 GLANCY TO MR. MCKINNEY.

4 Q MR. PORETTI: And then I am showing you a January
5 2nd, 1996 letter from Mr. McKinney to Mr. Glancy. Do
6 you recall receiving a copy, or do you recall seeing
7 this letter?

8 A I don't recall seeing this letter.

9 Q Can we mark this as the next exhibit for
10 identification, please.

11 MS. HUTCHISON: Yes.

12 EXHIBIT NO. O FOR IDENTIFICATION:
13 LETTER DATED JANUARY 2, 1996 FROM MR.
14 MCKINNEY TO MR. GLANCY.

15 Q MR. PORETTI: Mrs. Poitras, with respect to
16 Exhibit O For Identification, the last two sentences of
17 the second paragraph Mr. McKinney indicates, again,
18 that the application was not complete and that the band
19 was prepared to try to assist you in completing your
20 application in an interview.

21 Is it your recollection that the band was, at that
22 time, still prepared to assist you in completing the
23 application by going through an interview process?

24 A That is not my recollection, sir.

25 Q Is it your recollection that the band was not
26 interested in interviewing you?

27 A I can't answer that.

1 Q You don't recall one way or the other?

2 A No.

3 Q This letter doesn't refresh your memory in that regard?

4 A No.

5 Q I am showing you a letter dated January 8, 1996. You
6 were copied on this letter. It is a letter from
7 Mr. Glancy to Mr. McKinney. Do you recall receiving a
8 copy of this letter?

9 A Have I seen this letter?

10 Q Do you recall being copied by Mr. Glancy on this
11 letter?

12 A I left all of the legal aspects to Mr. Glancy and I am
13 sure he copied it to me. So I am going to say yes, I
14 saw it.

15 Q If we could mark it as the next exhibit, please, D-14,
16 I believe.

17 MS. HUTCHISON: Yes.

18 EXHIBIT NO. 14:

19 LETTER DATED JANUARY 8, 1996 FROM MR.
20 GLANCY TO MR. MCKINNEY.

21 Q MR. PORETTI: If you take a look at the last
22 paragraph on the first page of Exhibit D-14 you will
23 see that Mr. Glancy is requesting dates for your
24 meeting with the Chief and Council. Do you see that?

25 A Yes.

26 Q So is it your recollection that the intent was to meet
27 with Chief and Council, certainly as of early 1996, to

1 deal with your membership application?

2 A Yes.

3 Q I am showing you a letter dated January 15, 1996 from
4 Mr. McKinney to Mr. Glancy. Do you recall seeing this
5 letter?

6 A I don't recall seeing this letter.

7 Q Could we mark this for identification purposes, please?

8 MS. HUTCHISON: Yes.

9 EXHIBIT NO. P FOR IDENTIFICATION:
10 LETTER DATED JANUARY 15, 1996 FROM MR.
11 MCKINNEY TO MR. GLANCY.

12 Q MR. PORETTI: And you will see in Exhibit P For
13 Identification, the end of the first paragraph,
14 Mr. McKinney asks for certain dates during the weeks of
15 January 29 and February 5, 1996 for a meeting with you.
16 Do you see that?

17 A Yes.

18 Q And if you take a look at a letter dated January 16,
19 1996 from Mr. Glancy to Mr. McKinney that you were
20 copied on you will see that Mr. Glancy advises that you
21 would be available during those two weeks. Do you see
22 that?

23 A Yes.

24 Q Can we mark that as the next exhibit?

25 MS. HUTCHISON: Yes.

26 EXHIBIT NO. 15:
27 LETTER DATED JANUARY 16, 1996 FROM MR.

1 copied to you. And while you read that letter, perhaps
2 we could mark that as the next exhibit.

3 MS. HUTCHISON: Yes.

4 MR. PORETTI: D-17.

5 EXHIBIT NO. 17:

6 LETTER DATED FEBRUARY 7, 1996 FROM MR.
7 GLANCY TO MR. MCKINNEY.

8 (Questioning adjourned 12:30 p.m.)

9 (Questioning resumed 1:30 p.m.)

10 Q MR. PORETTI: Good afternoon, Mrs. Poitras.

11 A Good afternoon, Mr. Poretti.

12 Q I am showing you a letter dated February 15, 1996 from
13 Mr. McKinney to Mr. Glancy. Do you recall seeing this
14 letter?

15 A Just a minute. I did not see this letter.

16 Q Could we mark it as Exhibit Q for Identification,
17 please?

18 MS. HUTCHISON: Yes.

19 EXHIBIT NO. Q FOR IDENTIFICATION:

20 LETTER DATED FEBRUARY 15, 1996 FROM MR.
21 MCKINNEY TO MR. GLANCY.

22 Q MR. PORETTI: Now in the second sentence
23 Mr. McKinney indicates that Chief Twinn advised that
24 you had undertaken to provide a new completed
25 application or the missing information from her
26 previous application. Now there is a subsequent letter
27 that I will be getting to, Mrs. Poitras, where your

1 counsel takes issue with that statement and says that
2 there was no such undertaking. And I am just bringing
3 that to your attention in fairness to you. Do you
4 recall whether you advised or undertook to provide a
5 new completed application at this time?

6 A No, I didn't. I did not say that.

7 Q Okay. The letter also indicates in the last sentence
8 of the first paragraph that Chief Twinn undertook to
9 take the matter up with council once he had received
10 the complete information from you. Do you recall Chief
11 Twinn advising you, or undertaking to do that?

12 A No.

13 Q Did you, in fact, provide a new completed application
14 or provide the missing information to Sawridge
15 subsequent to February 15, 1996?

16 A I don't recall. I don't think that I did.

17 Q I am showing you a letter dated June 19, 1996 from
18 Mr. Glancy to Mr. McKinney in which Mr. Glancy states
19 among other things that prior to proceeding to court he
20 would like to conduct an Examination for Discovery in
21 this action. Do you recall seeing this letter?

22 A No.

23 Q Can we mark this for identification purposes, please?

24 MS. HUTCHISON: Yes.

25 MR. PORETTI: Exhibit R, I believe.

26 EXHIBIT NO. R FOR IDENTIFICATION:

27 LETTER DATED JUNE 19, 1996 FROM MR.

1 GLANCY TO MR. MCKINNEY.

2 Q MR. PORETTI: I am showing you a letter dated
3 June 28, 1996 addressed to Mr. Glancy from Mr. McKinney
4 relating to this matter where Mr. McKinney indicates
5 that he will attempt to respond to Mr. Glancy later
6 next week. Do you recall seeing this letter?

7 A No, I don't.

8 Q Can we mark this as the next exhibit for
9 identification, please, Exhibit S?

10 MS. HUTCHISON: Yes. And Mr. Poretti, did you say
11 June 26th or June 28th?

12 MR. PORETTI: I should have said June 28th, 1996.

13 MS. HUTCHISON: Great.

14 EXHIBIT NO. S FOR IDENTIFICATION:
15 LETTER DATED JUNE 28, 1996 FROM MR.
16 MCKINNEY TO MR. GLANCY.

17 Q MR. PORETTI: I am showing you a letter dated
18 July 16th, 1996 from Mr. Glancy to Mr. McKinney. Do
19 you recall seeing this letter?

20 A No.

21 Q If we could mark that as Exhibit T for Identification,
22 please?

23 MS. HUTCHISON: Yes.

24 EXHIBIT NO. T FOR IDENTIFICATION:
25 LETTER DATED JULY 16, 1996 FROM MR.
26 GLANCY TO MR. MCKINNEY.

27 Q MR. PORETTI: I am showing you a letter dated

1 July 22, 1996 addressed to Mr. Glancy from
2 Mr. Henderson who was a lawyer at Aird & Berlis.

3 Was it your understanding that Mr. Henderson was
4 legal counsel for the Sawridge First Nation at the
5 time?

6 A No.

7 Q You have no recollection of that?

8 A No, I have no recollection on that.

9 Q You will see in the second paragraph that Mr. Henderson
10 indicates that they are attempting to obtain the
11 Poitras file from the former solicitors for Sawridge,
12 and once we have the file in hand and have had an
13 opportunity to review the file, they will respond with
14 respect to dates for the examination. Do you see that?

15 A Yes, I see that.

16 Q Do you recall seeing this letter at any time?

17 A No, I don't.

18 Q Prior to this week?

19 A No.

20 Q If we could mark that as the next exhibit for
21 identification, U.

22 MS. HUTCHISON: Yes.

23 EXHIBIT NO. U FOR IDENTIFICATION:
24 LETTER DATED JULY 22, 1996 FROM MR.
25 HENDERSON TO MR. GLANCY.

26 Q MR. PORETTI: I am showing you a letter dated
27 October 28, 1997 from Mr. Glancy to Aird & Berlis, to

1 the attention of Mr. Chalmers, and you were copied with
2 this letter. I am wondering if we could mark this as
3 the next exhibit, it will be Exhibit D-18.

4 MS. HUTCHISON: Yes.

5 EXHIBIT NO. 18:
6 LETTER DATED OCTOBER 28, 1997 FROM MR.
7 GLANCY TO MR. CHALMERS.

8 Q MR. PORETTI: Now with respect to Exhibit D-18,
9 which is the October 28th, 1997 letter, if you could
10 take a look at the first page and the fourth paragraph
11 down, Mr. Glancy indicates that the application for
12 membership was first sent to Sawridge on March 11,
13 1994. Is it your recollection that that was the first
14 time that you would have sent your membership
15 application to Sawridge?

16 A I don't recall because I know that I had filled in one
17 not complete, but I don't know if that was this one or
18 if this is the completed one. I think this is the
19 completed one. So this would be my second application.

20 Q Is it your recollection that you provided Sawridge with
21 two different application forms for your membership?

22 A I do recall, yes. Not completely. I don't know if I
23 got the first one and I redid it, or if I did a second
24 one completely. So I don't really recall, but I know I
25 filled it out twice.

26 Q You filled it out twice?

27 A Yeah.

1 Q We have seen some communication going back and forth
2 where Sawridge has indicated that your application is
3 incomplete?

4 A Yes.

5 Q Correct? And you indicated a few minutes ago that you
6 did not undertake to provide Sawridge or Chief Twinn
7 with a completed or newly filled out application form.
8 Do you recall that?

9 A That is true.

10 Q So by the time we are into 1997 is it fair to say that
11 you would not have provided any further application
12 form to Sawridge, or any further information once we
13 are at this stage?

14 A I believe that would be fair to say that.

15 Q And if you take a look on page 2 of Exhibit D-18 you
16 will see the third paragraph on the top. And this is
17 what I was referring to earlier, Mrs. Poitras, where
18 Mr. Glancy makes reference to the letter from
19 Mr. McKinney advising that there was an undertaking to
20 provide a new completed application, and then the next
21 paragraph Mr. Glancy takes issue with that saying that
22 you had not undertaken to do any such thing. And that
23 is your recollection today?

24 A That is my recollection, yes.

25 Q You are simply not sure, though, whether you ever
26 provided one application form to Sawridge or two, is
27 that fair?

1 A That is fair. I don't recall. And one of our
2 arguments was I acquired rights and I didn't need to do
3 the application form, that was just all Bill C-31.

4 Q Fair enough. And we will get to that in a few minutes,
5 I think, because we are getting closer to 2003 when the
6 order of the court made you a Sawridge member?

7 A Yeah, without application forms.

8 Q Without application?

9 A Yes.

10 Q Well, there was an application actually, but there was
11 an order of the court allowing you to become a member,
12 correct?

13 A Yes.

14 Q We will talk about that shortly.

15 A Okay.

16 Q What you are not certain about, though, is you recall
17 preparing an application and then perhaps putting more
18 information in the application, correct?

19 A Yeah.

20 Q You just don't remember if you submitted two separate
21 applications or whether you just provided one, correct?

22 A Correct.

23 Q Let's go back to the first page of October 28, 1997,
24 and the fourth paragraph that I had referred you to,
25 and it makes reference to the provision of the
26 application on March 11, 1994. Do you see that?

27 A Yes.

1 Q Is it fair to say that on or about March 11, 1994 you
2 would have provided your application to Sawridge,
3 whether it was the first one or the second one, but you
4 would have provided it at that time?

5 A I believe so. Yeah, we have a letter here someplace.

6 Q If you take a look at Exhibit J For Identification
7 purposes there is certainly, and that is a March 21,
8 1994 letter, and I will show you my copy, if that
9 helps?

10 A Okay.

11 Q Just to refresh your memory. So you will see it is the
12 March 21, 1994 letter?

13 A M-hm.

14 Q And there is a reference here to a March 11, 1994
15 letter from Mr. Glancy enclosing the application. That
16 is the letter that you were just referring to?

17 A Yeah, and the application form, that was the first one
18 where I didn't want to fill everything and I would say
19 see Sawridge files, or, because they know my mother, go
20 and ask my mom.

21 Q So this was the first one submitted on March 1994?

22 A Yes. That is not the first -- that is the first one
23 submitted, but I don't know if it was March 11, 1994.
24 It was referred to on March 11, 1994. So I believe
25 that it was submitted before that. So they reviewed
26 it, answered it, and sent me a letter on that date.

27 Q Okay, I think I understand. Is it fair to say that

1 after March of 1994 you did not provide any further
2 application form to Sawridge?

3 A It is not fair to say that because I did have a
4 completed one after that. But like I said, I don't
5 know if I took that one and redid it, or if I redid a
6 whole new one. I filled in the blanks.

7 MS. HUTCHISON: Mr. Porette, I am not trying to be
8 difficult, but my recollection is you had actually
9 taken the witness through Exhibit 9, the March 20th,
10 1995 letter, and she had actually already indicated to
11 you that that was her second application. So we are
12 getting a little bit into territory where there had
13 been questions asked and answered, I think. So March
14 20, 1995, Exhibit 9.

15 MR. PORETTI: Thank you very much, Ms. Hutchison.
16 That does assist. So why don't we get Exhibit 9 out,
17 just to clarify the record. Thank you very much.

18 Q MR. PORETTI: So your counsel has pointed out
19 that we marked as Exhibit 9 a letter dated March 20,
20 1995 where enclosed was an executed application by you.
21 And I confess, I had forgotten that this letter
22 existed. So this would be the second application --

23 A Yes.

24 Q -- that you have been referring to, correct?

25 A Yes.

26 Q Thank you very much. And my apologies for overlooking
27 that.

1 So is it fair to say, then, after March 20, 1995
2 that this was the last application form that was
3 provided to Sawridge by you in relation to your
4 membership?

5 A That would be fair to say.

6 Q Okay, thank you. And so if we go back, then, to
7 Exhibit D-18, which is the October 28, 1997 letter,
8 because I think I may have asked some incorrect
9 questions in respect of page 2 of this letter. So when
10 we look at page 2, and I had referred you earlier to
11 the fact that Mr. Glancy indicates that you had never
12 undertaken to provide a new completed application or
13 the missing information from the previous application,
14 I believe that is your recollection, correct?

15 A Correct.

16 Q And so since the application that was provided on March
17 20, 1995, under cover of the letter that is marked as
18 Exhibit D-9, after that point in time you did not
19 provide Sawridge with any further new completed
20 application or any further missing information from
21 that application, correct?

22 A I don't recall.

23 Q You don't recall ever providing that, correct?

24 A No, I don't.

25 Q Am I correct?

26 A Yes.

27 Q Okay, thank you.

1 MR. PORETTI: Thank you, Ms. Hutchison, for
2 clarifying that.

3 MS. HUTCHISON: You are welcome, Mr. Poretti.

4 Q MR. PORETTI: Now you will see, back to Exhibit
5 D-18, the fourth paragraph on page 2, you will see
6 Mr. Glancy kind of goes through the correspondence
7 between the clients. And we have reviewed a lot of
8 that here today.

9 A M-hm.

10 Q And he ends off the paragraph by saying the next
11 correspondence on the file was from Mr. Henderson of
12 your office dated July 22, 1996, and that was the
13 document that we had marked as Exhibit U For
14 Identification purposes. You recall that?

15 A So this is the document here. So what is your
16 question?

17 Q My question is, between July 22, 1996, and October 28,
18 1997 what steps did you take, if any, in your
19 communications with the Sawridge First Nation as it
20 related to your membership application? Do you recall
21 taking any steps during that period of time prior to
22 this letter of Mr. Glancy's dated October 28, 1997?

23 A I don't recall.

24 Q I believe, Ms. Poitras, that you have a document that
25 is entitled Incident Report?

26 A Yes.

27 Q So this is a document entitled Incident Report dated

1 December 19, 1997. And it indicates, it says "Liz
2 Poitras" in someone's handwriting. And then it says,
3 "wants to know about her membership. Told her that her
4 application form must be completed and was sent to her
5 lawyer office. Band council and members would have to
6 approve her application."

7 First of all, do you recall seeing this document at
8 any time?

9 A I haven't seen this document, no.

10 Q Can we mark this for identification purposes?

11 MS. HUTCHISON: Yes.

12 EXHIBIT NO. V FOR IDENTIFICATION:
13 DOCUMENT ENTITLED INCIDENT REPORT DATED
14 DECEMBER 19, 1997.

15 Q MR. PORETTI: Do you recall having a discussion
16 with someone at the Sawridge First Nation inquiring
17 about the status of your membership application on or
18 about December 19, 1997?

19 A I don't recall, but I probably did. I -- they didn't
20 record all of the phone calls, you know, but I have
21 asked about the status of my application.

22 Q From time to time?

23 A Yes.

24 Q I am showing you a document entitled -- it is on a
25 Sawridge fax cover sheet that is dated January 9, 2001.
26 And attached to the fax cover sheet are some documents
27 entitled Questions and then three pages later there is

1 a page entitled Deficiencies.

2 MS. HUTCHISON: Just off the record.

3 (Discussion off the Record.)

4 Q MR. PORETTI: Mrs. Poitras, with respect to the
5 document dated January 9, 2001 do you recall seeing
6 this document at any time prior to this week?

7 A I had not seen it until now.

8 Q Until just now?

9 A Yeah.

10 Q Can we mark that for identification purposes, please?

11 MS. HUTCHISON: Yes.

12 EXHIBIT NO. W FOR IDENTIFICATION:
13 SAWRIDGE FAX COVER SHEET DATED JANUARY
14 9, 2001 WITH ATTACHED DOCUMENTS ENTITLED
15 QUESTIONS AND DEFICIENCIES.

16 Q MR. PORETTI: With respect to your membership
17 application form, did the Sawridge First Nation advise
18 you of the deficiencies that they perceived in the form
19 throughout this period of time?

20 A They did not.

21 Q When you attended for an interview with Chief and
22 council, do you recall doing that?

23 A I don't ever recall meeting with Chief and council.

24 MS. HUTCHISON: Mr. Poretti, the only thing that we
25 have covered is meeting with Chief Twinn.

26 Q MR. PORETTI: Is that the only meeting you
27 recall?

1 A I recall just casually meeting with him, yes.

2 Q You have no recollection of having an interview process
3 carried out with Sawridge Chief and council; is that
4 correct?

5 A No.

6 Q I am correct?

7 A That is correct, I have not met with them.

8 Q Okay.

9 A My mom and my dad were married way before 1950.

10 Q I will take your word for that.

11 MS. HUTCHISON: Liz is looking at the list. I am
12 just going to get that out of the way for now.

13 A I wouldn't have answered 1950.

14 MS. HUTCHISON: We need to wait for Mr. Poretti to
15 ask you a question, okay. Sorry.

16 MR. PORETTI: That is fine.

17 Q MR. PORETTI: Mrs. Poitras, we have gone through
18 a number of documents today, and in fact even the
19 previous questioning that took place last year?

20 A We have.

21 Q And there is a series of correspondence between
22 yourself, your counsel, and Sawridge First Nation or
23 their counsel?

24 A Yes.

25 Q Going back as far back as 1985, up to and including the
26 letter that we just looked at from Mr. Glancy in
27 October of 1997. And I would like to -- so

1 approximately around a 13-year period. And if you
2 could get your Affidavit before you, this is the
3 Affidavit that you swore in these proceedings. It was
4 sworn on December 7, 2011?

5 A Okay.

6 Q And if you take a look at paragraph 9 of your
7 Affidavit, and I will read it for you. It says, "As of
8 the date of this Affidavit I have never received a
9 response or a decision from Sawridge Indian band on my
10 application for membership or on my children's right to
11 membership."

12 And when you say you never received a response,
13 what do you mean when you say that? Are you saying
14 that -- well, what do you mean? You are obviously -- I
15 take it that this correspondence that went back and
16 forth that we have reviewed with you, and that we have
17 marked as exhibits, or exhibits for identification, I
18 take it that you don't consider those a form of
19 response?

20 A No. When you make an application for something the
21 response is either yes or no. My application for
22 membership was are you going to accept me or are you
23 not going to accept me. There was never a response to
24 say absolutely not, or yes, we will.

25 Q Okay.

26 A It is always we will consider, we need filed, we
27 changed legal counsel, we can't have this meeting

1 because the Chief is sick. So there was never a
2 positive response to my application. There was never,
3 ever a response to my children's application for
4 membership.

5 Q So we will get to your children later. I just want to
6 clarify.

7 A Okay.

8 Q So what you are saying is when you say that you never
9 received a response, you are saying you were never told
10 either yes or no; is that correct? Is that what you
11 mean by that?

12 A Yes.

13 Q And so you don't take issue with the fact that there
14 was communication back and forth between you and/or
15 your counsel and Sawridge, correct? Well, I put it to
16 you it is obvious that the parties have been
17 communicating over this 13-year period?

18 A They have been communicating. That is not my issue.
19 My issue is timeliness.

20 Q Okay.

21 A A year, their response, and --

22 Q Let me stop you there, please.

23 A Yes.

24 Q I just want to clarify the wording here in your
25 paragraph?

26 A Okay.

27 Q And I think that I have.

1 A M-hm.

2 Q And you may have issues, other issues relating to
3 timeliness and so on.

4 A M-hm.

5 Q But I just want to make sure that I understand what you
6 are saying is I never received a yes or a no?

7 A M-hm.

8 Q Correct?

9 A Yes. I would like to add that there were people that
10 were accepted, the Midbos and Draneys and their
11 children, they got a response. And why did I not get a
12 response, a positive one.

13 Q Mrs. Poitras --

14 A Sorry.

15 Q I know that you would like to add all sorts of things,
16 but I am going to ask for your indulgence, just if you
17 could?

18 A Okay, sorry.

19 Q Just answer the questions and hopefully we will allow
20 you to provide some information. I am going to get to
21 some of these other issues shortly.

22 A Okay, thanks.

23 Q Mrs. Poitras, if you could take a look at paragraph 7
24 of your Affidavit. And there is a reference in
25 paragraph 7 to an application dated December 16, 1994.
26 Do you see that?

27 A Yes, I do.

1 Q And I just want to make sure that we have covered this
2 off. My understanding of your evidence of a few
3 minutes ago was that your recollection was that you
4 provided two application forms, is that correct, to the
5 Sawridge First Nation?

6 A No, I didn't say that.

7 Q Okay. What is your recollection with respect to that?

8 A I said my recollection is I submitted twice, but I
9 don't know if it is two separate ones. I don't know if
10 it is a revision of the first one or a completely new
11 one.

12 Q There was either one or two, is that fair?

13 A Yes.

14 Q So just to be clear, the reference to the application
15 form dated December 16, 1994, that would have been --

16 A The completed one.

17 Q That would have been the completed one, okay. And do
18 we have your consent to obtain a copy of any
19 application form that you provided to the Sawridge
20 First Nation for -- do we have your consent for the
21 Sawridge First Nation to provide us, being myself, as
22 counsel for the trustees, with a copy of any such
23 application forms?

24 MS. HUTCHISON: My recollection, Mr. Poretti, is
25 that that was the subject of an undertaking that was
26 taken under advisement in the first stage of
27 questioning.

1 MR. PORETTI: Ms. Hutchison, my recollection is
2 that with respect to the application form, and I stand
3 to be corrected on this, with respect to the
4 application form I believe Ms. Poitras undertook to
5 provide us with a copy of the application form and then
6 she provided her consent in the event that she could
7 not provide the application form to us.

8 MS. HUTCHISON: So Undertaking Number 3 was to
9 provide --

10 MR. PORETTI: Give me a second, please.

11 MS. HUTCHISON: Yes. It is to provide consent to
12 obtain from Sawridge Band any written materials Ms.
13 Poitras would have submitted to them relating to
14 membership issues. And that was taken under
15 advisement. So I would consider your current request
16 to fall within the scope of that undertaking, and I
17 agree with you, Undertaking Number 1 is Ms. Poitras
18 agreeing to provide what she has, if she still has it
19 obviously, the December 16th, 1994 application form.

20 You are asking her right now for consent to get
21 something from Sawridge, correct?

22 MR. PORETTI: If you take a look at the -- let's
23 go off the record.

24 (Discussion off the Record.)

25 MR. PORETTI: Further to our off-the-record
26 discussion my understanding of the previous undertaking
27 that you provided was to provide us with a copy of the

1 December 1994 application form, and that if you could
2 not provide that to us you had already provided us your
3 consent to seek that form from the Sawridge First
4 Nation.

5 My current request was for your consent to approach
6 the Sawridge First Nation at this time, with your
7 consent, to obtain that application form and any other
8 application forms that you have submitted to the
9 Sawridge First Nation, and I understand that your
10 counsel is refusing that consent, effectively, because
11 it is not an undertaking request. It is seeking her
12 consent at this time.

13 MS. HUTCHISON: So, Mr. Poretti, first I just note
14 that as you described your request it has got a bit
15 broader since we came back on the record, now you are
16 requesting all application forms.

17 MR. PORETTI: I think that was my original
18 request.

19 MS. HUTCHISON: I am not sure it is. In any event,
20 our position is this. Your current request would be,
21 in our view, fully dealt with under Undertaking Number
22 3, already taken under advisement. If you would like
23 to put this on the record as an additional undertaking,
24 I'm completely comfortable with that, but we will take
25 it under advisement.

26 MR. PORETTI: I think it is captured under
27 Undertaking Number 3, so I don't think that we need to