



Clerk's stamp:

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, MARGARET WARD,
BERTHA L'HIRONDELLE, EVERETT JUSTIN
TWIN, and DAVID MAJESKI, as Trustees for the
1985 Sawridge Trust ("Sawridge Trustees")

DOCUMENT

**Application by the Sawridge Trustees
for Advice and Direction (returnable
September 25, 2018)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Dentons Canada LLP
2900 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3V5
Counsel for the Sawridge Trustees

Attention: Doris C.E. Bonora
Telephone: (780) 423-7188
Fax: (780) 423-7276
File No: 551860-001-DCEB

Respondents:

Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park AB T8H 2A3
Attention: Janet L. Hutchison

Counsel for the Office of the Public
Guardian and Trustee

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton AB T5N 3Y4
Attention: Karen A. Platten, Q.C. and
Crista Osualdini

Counsel for Catherine Twinn

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Case Management Justice.

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

Date	September 25, 2018
Time	10:00 am
Where	Law Courts, 1 A Sir Winston Churchill Square, Edmonton
Before Whom	Case Management Justice D.R.G. Thomas

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

A. **Privilege Order**

1. The Sawridge Trustees request that this Court grant an order in the form attached as **Schedule "A"** to deem that lawyer-client privilege has not been waived in respect of the subject matter raised in a number of documents filed in these proceedings; the related Action 1403 04885 (the "1403 Action"); and the questionings on those documents (both in respect of oral responses to questionings, and in respect of written responses such as undertakings, interrogatories, and associated productions/filings).
2. The proposed order would allow the documents to be used in the form they are in and permit the litigation to proceed without delay. The only restriction sought is to protect privilege on documents that have not been released to date. The solution proposed by the Sawridge Trustees will permit any other privileged documents that a party may seek to rely on to be dealt with on a case-by-case basis.
3. The Sawridge Trustees believe that the proposal is efficient and an effective means of proceeding to reach a resolution. It is the quickest means of resolving this claim at the least expense.

4. If the proposed order is not granted, the Sawridge Trustees request that a timetable in respect of an application to determine how the issue of privilege should be dealt with be set according to **Schedule "B"**, attached.

B. Directed Issue Hearing and Litigation Plan

5. The Sawridge Trustees request that this Court grant an order for a question or issue to be determined, pursuant to Rule 7.1 of the *Alberta Rules of Court* ("**Directed Issue Hearing**"), with respect to the following issue:
 - (a) Given that the definition of "Beneficiary" in the 1985 Trust ("**Definition**") has been determined to be discriminatory, is it appropriate to change the Definition on the basis of public policy?
 - (b) If the answer to the above question is "yes", in what manner should it be changed and what should the Definition be?
 - (c) If the answer to the above question is "no", should the Definition be varied pursuant to s. 42 of the *Trustee Act*?
 - (d) If the Definition is not varied on the basis of public policy or s. 42 of the *Trustee Act*, does the definition remain the same?
6. The Sawridge Trustees request a direction that any party that is proposing a variation of the Definition pursuant to s. 42 of the *Trustee Act* must secure approval from the known beneficiaries prior to the Directed Issue Hearing. If 100% approval from known beneficiaries cannot be obtained, that will immediately address the question of whether that provision can be invoked.
7. If the Directed Issue Hearing is ordered, the Sawridge Trustees further request that a timetable in respect of that Hearing be set according to **Schedule "C"**, attached.

C. Non party participation

8. The Trustees seek direction on non party participation as was suggested in Sawridge #5 and as was sought but not dealt with in the January 2018 case management meeting.

Grounds for making this application:

A. Privilege Order

9. Catherine Twinn has sworn an Affidavit of Records on which she intends to rely. Included in that Affidavit of Records are documents that disclose the contents of solicitor-client communications between the Sawridge Trustees (of which Catherine Twinn formerly was one), and their lawyers.
10. A number of those documents were filed simultaneously in this proceeding and in the 1403 Action. Some of them were discussed during questioning, and some documents produced in response to undertakings and/or interrogatories contain such communications as well.
11. The Sawridge Trustees did not intend to broadly waive privilege over the subject matter of those communications. At the time those documents were filed, they were relevant to the issues in dispute

between Catherine Twinn and the Sawridge Trustees. Those issues included the conduct of the Trustees and their possible removal based on conduct and also an indemnity application for costs by Catherine Twinn. The issues of conduct and indemnification were mostly unrelated to the issues in this 1103 Action.

12. The Sawridge Trustees seek an order clarifying and declaring that there is no broad waiver of solicitor-client privilege in respect of any subject matter that is raised in any of the documents filed in these proceedings, the 1403 Action, or the questionings and responses. Attached as **Schedule "D"** hereto is the proposed form of order.
13. This proposed order would permit the use of the documents filed to date, as well as the transcripts of the questionings of Catherine Twinn and Paul Bujold held to date and answers to Undertakings and Interrogatories. It would permit virtually all documents in Catherine Twinn's sworn Affidavit of Records, with the exception of four new documents she seeks to introduce. For any new documents such as those four new documents in Catherine Twinn's Affidavit of Records, the order permits them to be dealt with on a case-by-case basis on the agreement of the parties or the direction of the Court.
14. What the order does is declare that there is no broader waiver of privilege by the use of those documents, or responses, in these proceedings. As such, the Sawridge Trustees cannot be compelled, by anyone, to disclose any further documents or information regarding legal advice in respect of any subject matter raised in the documents and/or questionings.
15. The Sawridge Trustees believe that this declaration is critical to protect the 1985 Trust from arguments of broad waiver by anyone, including strangers to the 1985 Trust.
16. There is also an express provision in the proposed order to clarify that nothing in the order is meant to expand or limit the rights that any beneficiary of the 1985 Trust may have at law to request to see a trust document. Such requests will continue to be governed by the law respecting the rights of a beneficiary to request trust documents, including limits on those rights at law.
17. The Sawridge Trustees believe that this is a practical solution that will permit the parties to this Application to use documents that have been filed to date and use the questioning done to date, while providing critical protection to the 1985 Trust. Since the questionings of the Sawridge Trustees have been held, and all proposed documents have been listed in the parties' Affidavits of Records, the Sawridge Trustees do not see any prejudice to any party that may be caused by an order confirming that privilege is not broadly waived, particularly in contrast to the important role of protecting privilege of the 1985 Trust.
18. In keeping with Rule 1.2 of the Rules of Court, the order will facilitate the quickest means of resolving a claim at the least expense and will provide an effective, efficient system of enforcing the rules with respect to disclosure.
19. If this Honourable Court declines to grant the proposed order in **Schedule "D"**, the Sawridge Trustees request that a timeline be set for an application to determine how the documents that Catherine Twinn proposes to include in her Affidavit of Records should be dealt with in accordance with **Schedule "C"**.

B. Directed Issue Hearing on Definition of Beneficiary

20. The Definition has been deemed discriminatory, pursuant to the Order of this Court issued on January 19, 2018. A copy of that Order is attached for ease of reference as **Schedule "E"**.
21. The next issue, then, is whether the Definition will be changed, and by what procedure. The Sawridge Trustees raised this in their Application filed on January 9, 2018 (Application: Statement of Issues and Relief Sought). The application is attached as **Schedule "F"**.
22. The Sawridge Trustees sent a letter to the parties on June 22, 2018, proposing an Order for dealing with this issue. A copy of that letter is attached as **Schedule "G"**. In terms of the procedure to amend the Definition, the Sawridge Trustees requested that the OPGT and Catherine Twinn advise if they took the position that an application to vary the Trust pursuant to s. 42 of the *Trustee Act* was required, or whether an amendment pursuant to the Trust Deed was required..
23. The Sawridge Trustees propose that there be a Directed Issue Hearing because this question of procedure is essential in determining the course of remaining issues in the Application. The resolution of the Directed Issue Hearing meets the objectives in Subrule 7.1(1):
 - (a) Determining whether the Definition may be amended or modified may dispose of the rest of the claim. If it is found that the Definition should not or cannot be modified, the discriminatory nature of the Definition notwithstanding, then that will dispose of the rest of the Application in respect of grandfathering.
 - (b) The determination of whether the Definition may be amended or modified is a necessary precursor to any findings on what grandfathering, if any, is appropriate. Until it is known whether the Definition will change, and if so, then how it may change, there cannot be any determinations or meaningful discussions about whose rights may be affected by any such change.
 - (c) Having this early determination will save expense and court resources, as it will focus the hearing on the issue of grandfathering. Since it will be known in advance what the new Definition will be, then the parties will be in a better position to ascertain whose interests will be affected, and therefore what evidence may need to be led in respect of those individuals. In contrast, if it is not known what the Definition will be before any hearing on grandfathering, then there is likely to be evidence led in respect of individuals who will remain beneficiaries and do not need to be grandfathered. The trial on that issue will almost certainly be longer than necessary as a result, and the parties will be put to additional expense.
 - (d) The question of whether the Definition may be amended or modified is an issue of law. Little evidence will be required. It can proceed quickly in contrast, the remaining issue of grandfathering will require a significant amount of evidence on the issues of individual genealogies and the interpretation of the *Indian Act* as of April 15, 1982. It will require a longer hearing, which, for reasons above, may be entirely unnecessary, depending on how the DIH is determined.

The Sawridge Trustees are proposing that any change would be made pursuant to common law powers of the courts in respect of the administration of trusts and dealing with

public policy, and as such would not require 100% approval of beneficiaries. In contrast, s. 42 requires that 100% beneficiary approval be obtained in respect of any proposed change to the definition. The parties should take such steps prior to the Directed Issue Hearing as may be necessary to seek approval of any proposed definition. If there is even one beneficiary response opposing a proposed change, and the Court determines that it cannot proceed under the common law, then it will be quickly and readily apparent that such an application would not succeed and grandfathering will not be a question.

24. There is little to no overlap between the issue of whether and how the Definition is to be modified, and the issue of who may be grandfathered. The determination of the issue respecting the change to the Definition is a legal question
25. If the Directed Issue Hearing is granted, the Sawridge Trustees propose that a litigation plan in the form attached as **Schedule "A"** be approved by this Court. If this Honourable Court declines to grant the proposed order in **Schedule "D"**, the Sawridge Trustees propose that a litigation plan in the form attached as **Schedule "B"** be granted to accommodate the determination of the privilege issue.

C. Litigation Plan

26. The Order of this Honourable Court issued January 19, 2018 attached and incorporated, as Schedule "A" thereto, a Litigation Plan. Step 15 of that Litigation Plan provided:

15.	Parties to submit Consent Order proposing revised Litigation Plan including a procedure for the remainder of the application including remedy for striking language or amending the trust under section 42 of the Trustee Act or amending the trust according to the trust deed. Alternatively, Trustees to file application re: same.	By July 15, 2018
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27. The Sawridge Trustees and the Respondents did not reach such a Consent Order by July 15, 2018.
28. The Sawridge Trustees therefore bring the within application to seek assistance of this Court in setting a Litigation Plan for the remainder of the application as provided in Step 15 of the previous Litigation Plan.

D. Method of Non-Party Beneficiary Participation

29. The Sawridge Trustees submitted at the Case Management Conference held on January 19, and their submission remains, that participation in writing only by any person who is a beneficiary and/or potential beneficiary will be the most effective and efficient method of participation in the Trust litigation. The Sawridge Trustees propose that the participation be limited to one submission per individual at each stage of the hearing of issues and that this be incorporated into the Litigation Plan. (If this Court agrees to the Directed Issue Hearing, one submission could be made at that time, and one at the time of any subsequent hearing in respect of grandfathering.)
30. There are many people who claim to be potential beneficiaries of whom the Trustees are aware. Given the number of such potential beneficiaries, the Sawridge Trustees further submit that a page

limit of **5 pages per written submission** (including attachments) would provide an appropriate balance between the interests of the beneficiary/potential beneficiary in making a submission in respect of his or her interests, with the need to maintain proportionality and efficiency in the proceedings. The submissions are not to be duplicative of arguments already made. Any duplication could be subject to costs awards.

31. The Sawridge Trustees submit that, for the Directed Issue Hearing, beneficiary evidence from beneficiaries, or potential beneficiaries, would not be required, as it is a question of law. However, if this Court disagrees, the Sawridge Trustees propose that any beneficiary or potential beneficiary who wishes to file an affidavit can only do so to raise evidence that is unique and distinct from evidence that has already been filed by the parties. If a beneficiary or potential beneficiary filed duplicative evidence, the issue of the duplicative nature of the evidence will be addressed in a costs application and there may be costs consequences for duplication of submissions.
32. If participation in this manner is directed, the Sawridge Trustees suggest that a deadline for beneficiary submissions in respect of the Directed Issue Hearing be incorporated into the proposed timetable, as shown in the proposed timetable attached as **Schedule "A"** (or, in the alternative, **Schedule "B"**). The Sawridge Trustees propose that notice be provided by way of case management order, which would be published on the website for this proceeding.

Material or evidence to be relied on:

- D. Affidavits of Paul Bujold filed to date.
- E. The attached Schedules.
- F. Concise Bench Brief to be filed by the Applicants by August 24, 2018.
- G. Such further evidence as may be filed by the Applicant prior to the return date of the Application.

Applicable Rules:

- H. *Alberta Rules of Court*, Alta Reg 124/2010, Rules 1.2, 4.14, 7.1, 6.44-46

How the Application is proposed to be heard or considered:

- I. The Sawridge Trustees propose that this application proceed by way of an oral hearing on the date set out above.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE A

**Schedule "A" – Litigation Plan for Directed Issue Hearing
if Privilege Issue Determined September 25, 2018**

1. The remaining steps and procedures are to be completed on or before the dates specified below:

NO.	ACTION	DEADLINE
1.	Case Management Meeting to address Trustees' Application for Advice and Direction	September 25, 2018
2.	Questioning by OPGT of Catherine Twinn on Affidavit of Records filed, if required, and further questioning of Paul Bujold (Sawridge Trustees) by OPGT on Affidavits of Records filed, if required.	By October 19, 2018
3.	Notice posted to the website of the Directed Issue Hearing. Letters sent to SFN members of the nature of the application and letters sent to identified potential beneficiaries of the application.	By October 19, 2018
4.	Parties to send any proposal(s) for a varied definition that might be relied on for dealing with s. 42 at the Directed Issue Hearing, with a request that responses to the proposal be returned by November 1, 2018	By October 19, 2018
5.	Brief of the Sawridge Trustees for Directed Issue Hearing filed	By November 9, 2018
6.	Briefs of the OPGT and Catherine Twinn for Directed Issue Hearing filed	By November 23, 2018
7.	Written submissions by any non-party beneficiaries/potential beneficiaries, including any submission by the SFN (maximum of 5 pages, including attachments)	By December 5, 2018
8.	Directed Issue Hearing (one half day)	Dependent on availability of Court (by December 21 if possible)
9.	A new litigation plan will be developed for the steps for grandfathering, if necessary: need witness lists; will-say statements; briefs; hearing date	

SCHEDULE B

**Schedule "B" – Litigation Plan for Directed Issue Hearing
if Privilege Issue Not Determined September 25, 2018**

1. The remaining steps and procedures are to be completed on or before the dates specified below:

NO.	ACTION	DEADLINE
1.	Case Management Meeting to address Trustees' Application for Advice and Direction	September 25, 2018
2.	Notice posted to the website of the Directed Issue Hearing. Letters sent to SFN members of the nature of the application and letters sent to identified potential beneficiaries of the application.	By November 19, 2018
3.	Parties to send any proposal(s) for a varied definition that might be relied on for dealing with s. 42 at the Directed Issue Hearing, with a request that responses to the proposal be returned by November 1, 2018	By November 19, 2018
4.	Questioning by OPGT of Catherine Twinn on Affidavit of Records filed, if required, and further questioning of Paul Bujold (Sawridge Trustees) by OPGT on Affidavits of Records filed, if required.	By December 14, 2018
5.	Brief of the Sawridge Trustees for Directed Issue Hearing filed	By December 21, 2018
6.	Briefs of the OPGT and Catherine Twinn for Directed Issue Hearing filed	By January 4, 2019
7.	Written submissions by any non-party beneficiaries/potential beneficiaries, including any submission by the SFN (maximum of 5 pages, including attachments)	By January 18, 2019
8.	Directed Issue Hearing (one half day)	Dependent on availability of Court (by February 1, 2019 if possible)
9.	A new litigation plan will be developed for the steps for grandfathering, if necessary: need witness lists; will-say statements; briefs; hearing date	

SCHEDULE C

Schedule "C" –Litigation Plan for Privilege Hearing

1. The remaining steps and procedures are to be completed on or before the dates specified below:

NO.	ACTION	DEADLINE
1.	Case Management Meeting to address Trustee's application for an Order on the Privilege Issue. If proposed order granted, issue is complete.	September 25, 2018
2.	If order not granted September 25, Trustees to put together all documents that contain privileged information and provide to Catherine Twinn to see if agreement can be reached on the exclusion of the whole document or on the exclusion of a redacted portion of the document	By September 28, 2018
3.	All non-contested documents from the Affidavit of Records of Catherine Twinn (i.e., documents over which no issues regarding privilege are raised) delivered to OPGT	By September 28, 2018
4.	If no agreement is reached on exclusions/redactions from contested documents by October 12, 2018, then the parties will agree on a referee to review the documents to determine what documents raise privilege issues. Referee to be appointed by agreement of the parties.	By October 19, 2018
5.	If no agreement is reached on a referee, the parties may apply in regular morning chambers to have a referee appointed.	By October 26, 2018
6.	Referee to make decision and provide report to the Court.	By November 2, 2018
7.	Trustees to file a brief outlining position on privilege.	By November 9, 2018
8.	Any responding briefs to be filed by Catherine Twinn and the OPGT on privilege.	By November 16, 2018
9.	Hearing in respect of the privilege issues	By November 30, 2018 (court time permitting)

SCHEDULE D

Schedule "D" – Proposed Privilege Order

Clerk's stamp:

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, and

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

APPLICANT ROLAND TWINN, MARGARET WARD, BERTHA
L'HIRONDELLE, EVERETT JUSTIN TWIN AND DAVID
MAJESKI, as Trustees for the 1985 Trust ("Sawridge
Trusts")

DOCUMENT **ORDER (PRIVILEGE)**

DATE ORDER PRONOUNCED
LOCATION WHERE ORDER
PRONOUNCED **Edmonton, Alberta**

NAME OF JUSTICE WHO MADE
THIS ORDER **Honourable Justice D.R.G. Thomas**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT Dentons Canada LLP
2900 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3V5

Attention: Doris C.E. Bonora
Telephone: (780) 423-7100
Fax: (780) 423-7276
File No: 551860-001-DCEB

UPON the Application by the Sawridge Trustees for advice and direction in respect of the Sawridge Band Inter Vivos Settlement ("**1985 Trust**") ("**Application**");

AND WHEREAS certain documents have been filed in these proceedings prior to the date of this Order that refer to legal advice provided to the Sawridge Trustees, including to Catherine Twinn while she was a Sawridge Trustee (the "**Filed Documents**");

AND WHEREAS certain of the Filed Documents have also been filed in Court File No. 1403 04885 (the "**1403 Filed Documents**");

AND WHEREAS the Sawridge Trustees, The Office of the Public Trustee and Guardian of Alberta ("**OPGT**") and Catherine Twinn agree that there is no intention to waive solicitor-client privilege over the subject matter of the communications contained in the Filed Documents and the 1403 Filed Documents;

AND WHEREAS the Sawridge Trustees, the OPGT and Catherine Twinn consent to this Order;

IT IS HEREBY ORDERED AND DECLARED;

1. Any waiver of solicitor-client privilege that may be implied from the contents of the Filed Documents, and/or the 1403 Filed Documents, is expressly limited to the contents of those documents.
2. No response in a questioning, whether by way of oral or written response including any answer recorded by transcript or answer to undertaking or interrogatories, that addresses the contents of the Filed Documents, and/or the 1403 Filed Documents (collectively "Questioning Responses"), can be construed as a general waiver of solicitor-client privilege over the subject matter of any communications contained therein.
3. The Sawridge Trustees are expressly declared not to have waived solicitor-client privilege over the subject matter of any matters discussed in the Filed Documents, the 1403 Filed Documents, and/or the Questioning Responses. Nothing in the contents of the Filed Documents, the 1403 Filed Documents, or any Questioning Responses given in these proceedings, can be used to compel the Sawridge Trustees to produce further documents or answer questions in respect of legal advice received by the Sawridge Trustees.
4. Nothing in the contents of the Filed Documents, the 1403 Filed Documents, or the Questioning Responses, can be used to compel the Sawridge Trustees to produce

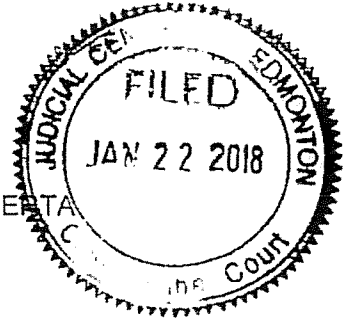
further documents or answer questions in respect of legal advice received by the Sawridge Trustees.

5. While this is a binding declaratory order, including on the parties to the Application and the beneficiaries of the 1985 Trust, nothing in this Order is intended to expand or limit the disclosure or production to which a beneficiary of the 1985 Trust may otherwise be entitled to at law to request as a beneficiary of the 1985 Trust.
6. If the Sawridge Trustees, the OPGT, Catherine Twinn, or any beneficiary of the 1985 Trust who may choose to participate in the manner permitted by this Court, seek to use any other document or record in this Application, other than those covered by this Order (being the Filed Documents, the 1403 Filed Documents, and the Questioning Responses) to which a claim of solicitor-client privilege may be made, the admissibility of such document and/or the terms for protecting the privilege of such document may be determined on a case-by-case basis, either by agreement of the Sawridge Trustees, the OPGT and Catherine Twinn, or by the direction of this Court.

The Honourable Justice D. R. G. Thomas

SCHEDULE E

Clerk's stamp:



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, and

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

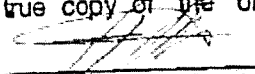
APPLICANT ROLAND TWINN, CATHERINE TWINN, BERTHA
L'HIRONDELLE, CLARA MIDBO AND WALTER FELIX
TWIN, as Trustees for the 1985 Trust and the 1986 Trust
("Sawridge Trustees")

DOCUMENT CONSENT ORDER (ISSUE OF DISCRIMINATION)

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT Dentons Canada LLP
2900 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3V5

JUSTICE: DR. G. THOMPSON
DATE: JAN 19, 2018
LOCATION: EDMONTON

I hereby certify this to be a
true copy of the original.


Clerk of the Court

Attention: Doris C.E. Bonora
Telephone: (780) 423-7100
Fax: (780) 423-7276
File No: 551860-001-DCEB

UPON the Application by the Sawridge Trustees for advice and direction in respect of the
Sawridge Band Inter Vivos Settlement ("1985 Trust"), for which an Application for Advice and
Direction was filed January 9th, 2018;

AND WHEREAS the first question in the Application by the Sawridge Trustees on which
direction is sought is whether the definition of "Beneficiary" in the 1985 Trust is discriminatory,
which definition reads:

"Beneficiary" at any particular time shall mean all persons who at that time qualify as
members of the Sawridge Indian Band No. 19 pursuant to the provisions of the Indian Act
R.S.C. 1970, Chapter I-6 as such provisions existed on the 15th day of April, 1982 and, in
the event that such provisions are amended after the date of the execution of this Deed

all persons who at such particular time would qualify for membership of the Sawridge Indian Band No. 19 pursuant to the said provisions as such provisions existed on the 15th day of April, 1982 and, for greater certainty, no persons who would not qualify as members of the Sawridge Indian Band No. 19 pursuant to the said provisions, as such provisions existed on the 15th day of April, 1982, shall be regarded as "Beneficiaries" for the purpose of this Settlement whether or not such persons become or are at any time considered to be members of the Sawridge Indian Band No. 19 for all or any other purposes by virtue of amendments to the Indian Act R.S.C. 1970, Chapter I-6 that may come into force at any time after the date of the execution of this Deed or by virtue of any other legislation enacted by the Parliament of Canada or by any province or by virtue of any regulation, Order in Council, treaty or executive act of the Government of Canada or any province or by any other means whatsoever; provided, for greater certainty, that any person who shall become enfranchised, become a member of another Indian band or in any manner voluntarily cease to be a member of the Sawridge Indian Band No. 19 under the Indian Act R.S.C. 1970, Chapter I-6, as amended from time to time, or any consolidation thereof or successor legislation thereto shall thereupon cease to be a Beneficiary for all purposes of this Settlement;

AND UPON being advised that the parties have agreed to resolve this specific question on the terms herein, and no other issue or question is raised before the Court at this time, including any question of the validity of the 1985 Trust;

AND UPON being advised the Parties remain committed to finding a remedy that will protect the existence of the 1985 Trust and the interests of the beneficiaries;

AND UPON there being a number of other issues in the Application that remain to be resolved, including the appropriate relief, and upon being advised that the parties wish to reserve and adjourn the determination of the nature of the relief with respect to the discrimination;

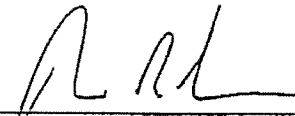
AND UPON this Court having the authority to facilitate such resolution of some of the issues raised in the Application prior to the determination of the balance of the Application;

AND UPON noting the consent of the Sawridge Trustees, consent of The Office of the Public Trustee and Guardian of Alberta ("OPGT") and the consent of Catherine Twinn;

IT IS HEREBY ORDERED AND DECLARED;

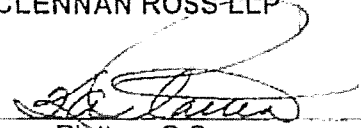
1. The definition of "Beneficiary" in the 1985 Trust is declared to be discriminatory insofar as it prohibits persons who are members of the Sawridge Indian Band No. 19 pursuant to the amendments to the *Indian Act* made after April 15, 1982 from being beneficiaries of the 1985 Trust.
2. The remaining issues in the Application, including the determination of any remedy in respect of this discriminatory definition, are to be the subject of a separate hearing. The timeline for this hearing will be as set out in Schedule "A" hereto and may be further determined at a future Case Management Meeting.
3. The Justice who hears and determines the remaining issues in this Application may consider all forms of discrimination in determining the appropriate relief.

4. Nothing in this order may be construed to be a determination that the 1985 Trust is void or otherwise invalid. This Consent Order cannot be used in an application for dissolution as the sole determinative factor that the 1985 Trust should be dissolved.
a ground upon which could.
5. The provisions in paragraph 4, above, will not prevent reliance on this Consent Order for any purpose in the within proceedings.

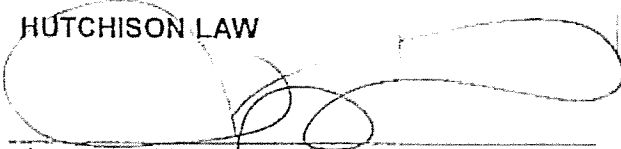

The Honourable D.J.R. G. Thomas
Thomas J

CONSENTED TO BY:

MCLENNAN ROSS-LLP


Karen Platten, Q.C.
Counsel for Catherine Twinn as Trustee for the 1985 Trust

HUTCHISON LAW


Janet Hutchison
Counsel for the OPGT

DENTONS CANADA LLP


Doris Bonora
Counsel for the Sawridge Trustees

SCHEDULE "A"

Clerk's stamp:

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, and

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

APPLICANT ROLAND TWINN, CATHERINE TWINN, BERTHA
L'HIRONDELLE, CLARA MIDBO AND WALTER FELIX
TWIN, as Trustees for the 1985 Trust and the 1986 Trust
("Sawridge Trustees")

DOCUMENT Litigation Plan January 19, 2018

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT Dentons Canada LLP
2900 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3V5

Attention: Doris C.E. Bonora
Telephone: (780) 423-7100
Fax: (780) 423-7276
File No: 551860-001-DCEB

1. The remaining steps and procedures are to be completed on or before the dates specified below:

NO.	ACTION	DEADLINE
1.	Case Management Meeting to address Trustee's application for an Order on the Discrimination Issue.	January 19, 2018
2.	Settlement meeting of all counsel for the Parties to continue to discuss remedies;	February 14, 15 or 16, 2018
3.	Interim payment on accounts made to OPGT from the Trustees	January 31, 2018 and February 28, 2018
4.	Agreed Statement of Facts to be circulated to all Parties, by the Trustees on the issue of the determination of the definition of beneficiary and grandfathering (if any).	By February 28, 2018
5.	Further Settlement meeting of all counsel for the Parties to continue to discuss remedies and draft Agreed Statement of Facts.	By March 30, 2018
6.	Responses from the Trustees to the OPGT regarding all outstanding issues on accounts to the end of 2017	March 30, 2018
7.	All Parties to provide preliminary comments on the Trustee's first draft of an Agreed Statement of Facts.	By May 30, 2018
8.	Concurrently with the preparation of the agreed statement of facts, all Parties to advise on whether they have any documents on which they respectively intend to rely on the issue of the remedies. If they have documents, they will file an Affidavit of Records	By February 28, 2018 <i>April 30</i>
9.	Concurrently with the preparation of the agreed statement of facts, all non-parties may provide records on which they intend to rely to all Parties who will determine if they are duplicates and if not, non party may file an Affidavit of Records	By February 28, 2018
10.	Third 2018 Settlement Meeting of all counsel to continue to discuss remedies and draft Agreed Statement of Facts.	By April 30, 2018
11.	Questioning on new documents only in Affidavits of Records filed, if required.	By May 30, 2018 <i>June 15</i>
12.	Non-party potential beneficiaries provide all Parties with any facts they wish to insert in the Agreed Statement of Facts.	By April 30, 2018

13.	Final Response by OPGT and any other recognized party on Agreed Statement of Facts.	By June 30, 2018
14.	Agreed Statement of Facts filed, if agreement reached.	By July 15, 2018
15.	Parties to submit Consent Order proposing revised Litigation Plan including a procedure for the remainder of the application including remedy for striking language or amending the trust under section 42 of the Trustee Act or amending the trust according to the trust deed. Alternatively, Trustees to file application re: same.	By July 15, 2018
16.	All other steps to be determined in a case management hearing	As and when necessary

SCHEDULE F



Clerk's stamp:

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

DOCUMENT

**Application (Statement of Issues and
Relief Sought)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Dentons Canada LLP
2900 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3V5
Counsel for the Sawridge Trustees

Attention: Doris C.E. Bonora
Telephone: (780) 423-7188
Fax: (780) 423-7276
File No: 551860-001-DCEB

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Case Management Justice.

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

Date	To Be Determined
Time	To Be Determined
Where	Law Courts, 1 A Sir Winston Churchill Square, Edmonton
Before Whom	To Be Determined

Go to the end of this document to see what you can do and when you must do it.

Basis for this claim:

1. The Applicants, the Sawridge Trustees, are the Trustees of the Sawridge Band Inter Vivos Settlement ("1985 Trust"). The Applicants seek determination of an issue and advice and directions from this Court. Pursuant to the comments of the Court of Appeal in *Twinn v Twinn*, 2017 ABCA 419, the Applicants file this document to set out and clarify the advice and directions sought in this Application.
2. The 1985 Trust was settled on April 15, 1985. Thereafter, section 15 of the *Canadian Charter of Rights and Freedoms* came into force, following the signing of the *Charter* into law.
3. After the 1985 Trust was settled, Bill C-31 was passed into law, making significant amendments to the *Indian Act*, R.S.C. 1970, Chapter I-6. Those amendments included the reinstatement of status and membership to women who had married non-Indigenous men and therefore lost their status and membership under the *Indian Act* prior to the amendments.
4. The definition of "Beneficiary" in the Trust Deed of the 1985 Trust makes specific reference to determining members of the Sawridge First Nation ("SFN") by reference to the *Indian Act* as it read as at April 15, 1982, before Bill C-31 was passed. The Trust Deed specifically prohibits amendment of the definition of "Beneficiary".
5. The 1985 Trust was funded from assets that had belonged to the SFN. Currently, there are members of SFN who are not beneficiaries of the 1985 Trust, such as the Bill C-31 women. There are beneficiaries of the 1985 Trust who are not members of SFN.
6. There may be other forms of discrimination in the definition of "Beneficiary".
7. The Applicants seek a determination of the following issue:

Is the definition of "Beneficiary" in the Trust Deed of the 1985 Trust discriminatory, insofar as the

definition refers to provisions of the *Indian Act*, RSC 1970, c I-6, which have since been amended, and reads:

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

Remedy sought:

8. If the definition of "Beneficiaries" is found not to be discriminatory, then the Applicants do not expect to seek any other relief.
9. If the definition of "Beneficiary" is discriminatory, the Applicants seek direction from this Court as to the appropriate remedy, and particularly whether the appropriate remedy is:
 - (a) To modify the definition by striking out language that has a discriminatory effect such that the definition of "Beneficiary" in the 1985 Trust will be reduced to members of the Sawridge First Nation?
 - (b) If the remedy in paragraph 9(a) is not granted to determine if the 1985 Trust can be amended pursuant to,
 - (i) the amending provisions of the Trust Deed, or
 - (ii) Section 42 of the *Trustee Act*?
10. If the definition of "Beneficiary" is modified, by striking out language or otherwise, then:
 - (a) Should there be "grandfathering" such that any of the individuals who met the definition of "Beneficiary" before this relief is granted will remain Beneficiaries?

- (b) If the answer to 10(a) is "yes", what should the terms of such "grandfathering" be and who will be grandfathered?

11. Such further and other relief as this Court may deem appropriate.

Affidavit or other evidence to be used in support of this application:

12. Such material as has been filed to date and has been posted on the applicable court ordered website at www.sawridgetrusts.ca

13. Such further material as counsel may further advise and this Honourable Court may admit.

How the Application is to be heard:

14. The application is to be heard in Special Chambers before the presiding Justice at a date to be determined.

Applicable Acts and regulations and Orders:

15. *Alberta Rules of Court*, Alta Reg 124/2010;

16. *Trustee Act*, RSA 2000, c T-8;

17. Order of the Court of Queen's Bench of Alberta dated January 5, 2018 in case management.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE G

June 22, 2018

File No.: 551860-1

SENT VIA E-MAIL:

Janet Hutchison
Unit #190 Broadway Business Square,
130 Broadway Boulevard,
Sherwood Park, Alberta, T8H 2A3

Karen Platten, Q.C. and Crista Osualdini
McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton AB T5N 3Y4

Dear Sir/Madam:

**RE: Beneficiary Definition in 1985 Sawridge Trust
Court File No. 1103 14112**

We write further to our letter dated March 21, 2018, to which we have not received a response. A copy of our letter is attached for your ease of reference.

One of the issues in our Application (Statement of Issues and Relief Sought) filed on January 9, 2018 ("Application") has been resolved by way of consent order dated January 19, 2018, with the definition of "Beneficiary" in the Trust Deed having been declared discriminatory.

As you are aware, the current litigation plan has no scheduled steps beyond July 15, 2018. In terms of the next steps, we write to propose that the issue of remedying the definition also be resolved by an order which can either be by consent or by having the parties signify that they do not oppose the order.

Law on amending the trust

Our view is that there is sound legal basis upon which the Court may strike language in the definition of "beneficiary" on the basis that such language has a discriminatory effect.

Two other possible methods of proceeding have been raised during the course of discussions: seeking variation pursuant to s. 42 of the *Trustee Act*, or amending pursuant to the terms of the Trust Deed.

If we were to proceed by way of s. 42 of the *Trustee Act*, which requires 100% consent, the views of even one beneficiary would prevent a remedy even if the substantial majority of other beneficiaries approve. Given the contentious nature of the litigation to date, we doubt that 100% approval of a definition is possible. In addition, there are substantial issues with ascertaining the identities of all of the beneficiaries of the Trust

thus it will not be certain that we have 100% approval. It also perpetuates the discrimination because the very women who are impacted by the discrimination do not have a vote, as they are not beneficiaries.

Our view is that amending pursuant to the Trust Deed is not possible, insofar as paragraph 10 specifies that no change can be made to the definition of "beneficiary" by way of the variation clause in the Trust Deed.

Amendment must precede Grandfathering

We believe that we cannot proceed with discussions about "grandfathering" individuals who may be impacted by a change to the definition until we know how the definition will be amended, as we cannot know if someone needs to be grandfathered until we know what the definition will be and whether they will be excluded. The change of definition must precede the grandfathering issue. Otherwise, we will be spending a great deal time and expense to discuss what amounts to hypotheticals, and in our view, there is no time or expense to be wasted.

Proposal to Proceed

We therefore are of the view that it is advisable to proceed by seeking the direction of the Court to amend the definition by striking language as follows:

~~"Beneficiaries" at any particular time shall mean all persons who at that time qualify as members of the Sawridge Indian Band No. 19 pursuant to the provisions of the Indian Act R.S.C. 1970, Chapter 1-6 as such provisions existed on the 15th day of April, 1982 and, in the event that such provisions are amended after the date of the execution of this Deed all persons who at such particular time would qualify for membership of the Sawridge Indian Band No. 19 pursuant to the said provisions as such provisions existed on the 15th day of April, 1982 and, for greater certainty, no persons who would not qualify as members of the Sawridge Indian Band No. 19 pursuant to the said provisions, as such provisions existed on the 15th day of April, 1982, shall be regarded as "Beneficiaries" for the purpose of this Settlement whether or not such persons become or are at any time considered to be members of the Sawridge Indian Band No. 19 for all or any other purposes by virtue of amendments to the Indian Act R.S.C. 1970, Chapter 1-6 that may come into force at any time after the date of the execution of this Deed or by virtue of any other legislation enacted by the Parliament of Canada or by any province or by virtue of any regulation, Order in Council, treaty or executive act of the Government of Canada or any province or by any other means whatsoever; provided, for greater certainty, that any person who shall become enfranchised, become a member of another Indian band or in any manner voluntarily cease to be a member of the Sawridge Indian Band No 19 under the Indian Act R.S.C. 1970, Chapter 1-6, as amended from time to time, or any consolidation thereof or successor legislation thereto Shall thereupon cease to be a Beneficiary for all purposes of this Settlement;~~

We have enclosed a draft Order to this effect. If agreed to by the parties, we can present that Order to the Court, together with a brief that sets out the law respecting the Court's authority to strike discriminatory language in a trust such as this one, and seek the Court's approval.

If you do not agree with our analysis, or with the terms this Order, we ask that you outline your position for our consideration. If either of your clients oppose this approach, it is important that we be advised of that position.

We look forward to your response, which we request be provided before July 15, 2018.

Yours truly,
Dentons Canada LLP

per 
Doris C.E. Bonora

Encl.

Clerk's stamp:

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, and

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

APPLICANT ROLAND TWINN, CATHERINE TWINN, BERTHA
L'HIRONDELLE, CLARA MIDBO AND WALTER FELIX
TWIN, as Trustees for the 1985 Trust and the 1986 Trust
("Sawridge Trustees")

DOCUMENT ORDER (DEFINITION OF BENEFICIARY)

DATE ORDER PRONOUNCED
LOCATION WHERE ORDERED Edmonton, Alberta
PRONOUNCED
NAME OF JUSTICE WHO MADE THIS ORDER Honourable Justice D.R.G. Thomas

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Dentons Canada LLP
2900 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3V5

Attention: Doris C.E. Bonora
Telephone: (780) 423-7100
Fax: (780) 423-7276
File No: 551860-001-DCEB

UPON the Application by the Sawridge Trustees for advice and direction in respect of the
Sawridge Band Inter Vivos Settlement ("1985 Trust") ("Application");

AND WHEREAS one issue in the Application by the Sawridge Trustees on which direction was
sought was whether the definition of "Beneficiary" in the 1985 Trust is discriminatory;

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AND WHEREAS the definition was declared discriminatory by way of Consent Order issued January 19, 2018;

AND WHEREAS another question in the Application on which direction is sought is what remedy is appropriate in respect of changing the definition that has been declared discriminatory;

AND UPON being advised that the parties ask the Court to consider resolving the definition of Beneficiary on the terms herein, and no other issue or question is raised before the Court at this time, including any question of the validity of the 1985 Trust;

AND UPON there being one remaining substantive issue in the Application to be resolved, being whether there should be any grandfathering of individuals whose status as beneficiaries would be affected by this change of definition, and upon being advised that the parties wish to reserve and adjourn the determination of this issue;

AND UPON this Court having the authority to facilitate such resolution of some of the issues raised in the Application prior to the determination of the balance of the Application;

AND UPON the Court being satisfied that it has the authority to amend a Trust Deed by striking discriminatory language;

AND UPON the form of this Order having been approved by the Sawridge Trustees, The Office of the Public Trustee and Guardian of Alberta ("OPGT") and Catherine Twinn;

IT IS HEREBY ORDERED AND DECLARED;

1. The definition of "Beneficiary" in the 1985 Trust be amended by striking out portions of the language in the Trust Deed, as follows:

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

~~consolidation thereof or successor legislation thereto shall thereupon cease to be a Beneficiary for all purposes of this Settlement;~~

2. The definition of Beneficiary for the 1985 Trust will be:

"Beneficiary" at any particular time shall mean all persons who at that time qualify as members of the Sawridge Indian Band.
3. The remaining substantive issue in the Application, being the determination of whether any individual whose status as a Beneficiary is affected by this amendment to the definition should be grandfathered as a Beneficiary, is adjourned *sine die*. The timeline for advancing that issue will be agreed by the parties or may be further determined at a future Case Management Meeting.
4. Nothing in this order may be construed to be a determination that the 1985 Trust is void or otherwise invalid. This Order cannot be used in an application for dissolution as a ground upon which the 1985 Trust could be dissolved.

The Honourable Justice D. R. G. Thomas

APPROVED BY:

MCLENNAN ROSS LLP

HUTCHISON LAW

Karen Platten, Q.C.
Counsel for Catherine Twinn

Janet Hutchison
Counsel for the OPGT

DENTONS CANADA LLP

Doris Bonora
Counsel for the Sawridge Trustees