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 Sawridge Trust")
APPLICANTS	ROLAND TWINN, MARGARET WARD, BERTHA L'HIRONDELLE, EVERETT JUSTIN TWIN AND DAVID MAJESKI as Trustees for the 1985 Sawridge Trust;
DOCUMENT	**OPGT'S OVERVIEW OF PROCEEDINGS TO DATE**
ADDRESS FOR SERVICES AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**Hutchison Law** #190 Broadway Business Square 130 Broadway Boulevard Sherwood Park, AB T8H 2A3 Attention: **Janet L. Hutchison** Telephone: (780) 417-7871 Fax: (780) 417-7872 File: 51433 JLH
DATE OF CASE MANAGEMENT HEARING	**December 18, 2018**
LOCATION WHERE CASE MANAGEMENT HEARING WILL BE HELD	**Edmonton, Alberta**
NAME OF JUSTICE HEARING THIS MATTER	**The Honourable Mr. Justice John T. Henderson**

OPGT's Overview of Proceedings to Date
Court of Queen's Bench Action #1103 14112

A. Introduction

1.) The Court's direction of October 26, 2018 requests brief submissions from Counsel for the purposes of the Case Management Meeting on December 18, 2018.

2.) The OPGT's understanding is that the Court is seeking general background and a summary of outstanding issues. The OPGT does not seek a determination of any particular issue by way of these submissions.

3.) For the Court's assistance, we have appended a brief chronology of the key events and steps to date in this proceeding.

[Chronology of Steps/ Events to Date, Tab 13 to the OPGT Background Documents Volume]

B. The OPGT's Roles in these Proceedings

4.) By way of an August 31, 2011 order, the Court directed the OPGT be notified of the proceedings and invited to comment on whether it should act for existing or potential minor beneficiaries.

1985 Sawridge Trust v. *Alberta (Public Trustee)*, 2012 ABQB 365 at para. 3 ("*Sawridge #1*") [Tab 1 to the OPGT Background Documents Volume]

5.) The OPGT then applied to be appointed as litigation representative for the minors, on the condition that the Court also order a full and advance indemnity for the OPGT's costs and order the OPGT be exempt from any liability for the costs of others.

1985 Sawridge Trust v. *Alberta (Public Trustee)*, 2012 ABQB 365 at para. 4 and 34 ("*Sawridge #1*") [Tab 1 to the OPGT Background Documents Volume]

6.) The Court found, *inter alia,* the OPGT's role as litigation representative was "necessary due to the potential conflict of interest of other litigants and failure of the Sawridge Trustees' to propose alternative independent representation". The Court ordered the OPGT receive "full and advance indemnification" for its participation and be exempted from any liability for costs to other participants.

1985 Sawridge Trust v. *Alberta (Public Trustee)*, 2012 ABQB 365 ("*Sawridge #1*") at para. 39-42 [Tab 1 to the OPGT Background Documents Volume]

7.) The Trustees appealed the *Sawridge #1* costs order. The Court of Appeal upheld *Sawridge #1* in all respects in the *Sawridge #2* decision.

1985 Sawridge Trust v *Alberta (Public Trustee)*, 2013 ABCA 226 ("*Sawridge #2*") [Tab 2 to the OPGT Background Documents Volume]

C. Progress in this Proceeding Between 2012-2018

8.) As will be apparent from the attached chronology, there has been consistent and ongoing activity on the file since it was commenced. Steps in the proceeding have included:

i.) Questioning (cross-examination) on the Trustees', the OPGT's and Catherine Twinn's affidavits;

ii.) Production applications;

iii.) Exchange of answers to undertakings;

iv.) Filing of Affidavits of Records by the Trustees and Ms. Twinn;

v.) Questioning on the Trustees' Affidavit of Records and Supplemental Affidavits of Records;

vi.) Applications to address the standing of a number of beneficiaries or potential beneficiaries and appeals therefrom;

9.) The issue of the need for an originating document had been outstanding from the early stages of the proceeding. The Court of Appeal in *Sawridge #5* recognized the need for an originating document setting out the specific relief being sought by the Trustees. On January 9, 2018, the Trustees filed their Application (Statement of Issues and Relief Sought).

[Application (Statement of Issues and Relief Sought), filed January 9, 2018, Tab 6 to the OPGT Background Documents Volume]

Twinn v *Twinn*, 2017 ABCA 419 [Tab 5 to the OPGT Background Documents Volume]

10.) The Trustees also sought a directed issue determination on whether the existing 1985 beneficiary definition was, in fact, discriminatory. The parties consented to an Order, issued on January 22, 2018 that stated, *inter alia*:

> *"The definition of "Beneficiary" in the 1985 Trust is declared to be discriminatory insofar as it prohibits persons who are members of Sawridge Indian Band No. 10 pursuant to the amendments to the Indian Act made after April 15, 1982 from being beneficiaries of the 1985 Trust."*
> ("The Discrimination Order")

[Consent Order (Issue of Discrimination), filed January 22, 2018, Tab 8 to the OPGT Background Documents Volume]

11.) Since the Discrimination Order, the parties' time and energies have been focused on matters including an Agreed Statement of Facts and Law and on settlement meetings.

[Chronology of Steps/ Events to Date, Tab 13 to the OPGT Background Documents Volume]

D. Trustees August 10, 2018 Advice and Direction Application

12.) The Trustees filed an Application for Advice and Direction, returnable September 25, 2018, on August 10, 2018. The following submissions were filed in relation to that application:

a) Brief of the Sawridge Trustees, filed August 24, 2018;

b) Reply Brief of the Public Guardian and Trustee, filed September 12, 2018;

c) Reply Brief of Catherine Twinn, filed September 14, 2018.

13.) Ms. Shelby Twinn also filed a letter with the Court seeking to appear at the September 25, 2018 appearance.

[Letter from Shelby Twinn to the Court, filed September 21, 2018, Tab 10 to the OPGT Background Documents Volume]

14.) That Court date was later cancelled and has yet to be rebooked. As such this application remains outstanding. We understand April 25, 2019 has been tentatively

identified as the date to address any matters that still remain outstanding from the August 10, 2018 application.

15.) Since filing of the submissions referred to in paragraph 12 above, the parties have been able to arrive at agreement on the framing of another longstanding issue, first raised in approximately 2015. The OPGT has agreed to terms for an application to determine the source of the Court's jurisdiction to vary the beneficiary definition in the 1985 Trust.

[Consent Order (Hearing of Jurisdictional Question), Tab 12 to the OPGT Background Documents Volume]

16.) The parties have largely resolved the form of the privilege order, with the only topic of ongoing discussion being paragraph 6 of the proposed form of order. The OPGT understands a future date will be scheduled to address the remaining issues regarding the Privilege Order.

E. Other Outstanding Matters

17.) The other pending or unresolved applications, the OPGT is aware of:

i.) The Trustees' January 21, 2016 distribution application, which was adjourned sine die on August 24, 2016.

[Letter from Sawridge Trustees to Court, dated January 21, 2016, Tab 3 to the OPGT Background Documents Volume]

[Transcript of Case Management Hearing, dated August 24, 2016, page 9, Tab 4 to the Submissions of the OPGT Background Documents Volume]

ii.) The Trustees' January 9, 2018 Statement of Issues and Relief Sought application;

[Application (Statement of Issues and Relief Sought), filed January 9, 2018, Tab 6 to the OPGT Background Documents Volume]

iii.) The Trustees' January 9, 2018 Directed Trial of Issue application, in relation to beneficiary or potential beneficiary participation; and

[Application by the Sawridge Trustees for Advice and Direction (Directed Trial of Issue), filed January 9, 2018, Tab 7 to the OPGT Background Documents Volume]

18.) The OPGT is also aware of the following remaining steps in this proceeding:

i.) Addressing any remaining issues around participation of beneficiaries or other entities who are currently non-parties.

[Letter from Shelby Twinn to the Court, filed September 21, 2018, Tab 10 to the OPGT Background Documents Volume]

[Letter from Ed Molstad, dated November 5, 2018, Tab 11 to the Submissions of the OPGT Background Documents Volume]

ii.) Filing of any affidavit evidence to be relied upon in the Jurisdiction Issue application and questioning on same;

iii.) Written submissions in the Jurisdictional Issue application;

iv.) Hearing of the Jurisdictional Issue application;

v.) Any amendments to pleadings or filing of Supplemental Affidavits arising from a decision on the Jurisdiction Issue application, if applicable;

vi.) Questioning of Paul Bujold and Catherine Twinn on the April 30, 2018 Catherine Twinn 2018 Affidavit of Records or any Supplemental Affidavits;

vii.) Once the Jurisdiction Issue is decided, finalizing a process for the final hearing to deal with the appropriate changes to the beneficiary definition and the preservation of vested beneficiary rights ("grandfathering");

viii.) Continuing discussions on the Agreed Statement of Facts and Law and additional settlement meetings;

ix.) Additional production on genealogical evidence, if necessary;

x.) Exchange of expert reports, if necessary;

19.) The OPGT is supportive of ongoing work on the Agreed Statement of Facts and Law and supportive of future settlement meetings. In the past, these matters have been addressed in the Litigation Plan, which the OPGT submits had been very useful in keeping the matter moving forward.

20.) There are also outstanding issues between the Trustees and the OPGT regarding payment of accounts. However, neither the Trustees nor the OPGT have sought additional Court direction on those matters at this time.

21.) The OPGT will reserve comments on any Litigation Plans that may be presented to the Court until December 18, 2018, as drafts remain under discussions among the parties at the time of filing.