

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")

APPLICANT ROLAND TWINN, MARGARET WARD,  
TRACEY SCARLETT, EVERETT JUSTIN  
TWIN AND DAVID MAJESKI, as Trustees  
for the 1985 Sawridge Trust ("Sawridge  
Trustees")

DOCUMENT **APPLICATION**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

Dentons Canada LLP  
2500 Stantec Tower  
10230 – 103 Avenue  
Edmonton, AB T5J 0K4

Attention: Doris C.E. Bonora and Michael S Sestito  
Telephone: (780) 423-7100  
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 master/judge.

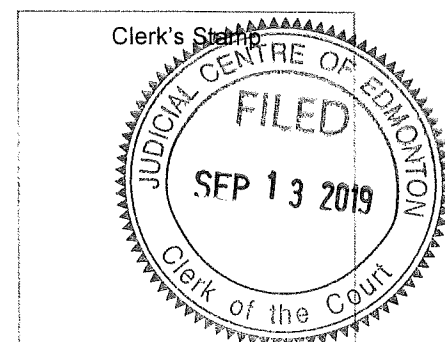
To do so, you must be in Court when the application is heard as shown below:

Date: **Wednesday, November 27, 2019**

Time: **10:00 a.m.**

Where: **Law Courts, 1A Sir Winston Churchill Square,  
Edmonton, Alberta T5J 0R2**

Before Whom: **The Honourable Mr. Justice J.T. Henderson**



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

**Remedy claimed or sought:**

1. Determination and direction of the affect of the consent order made by Mr. Justice D.R.G. Thomas pronounced on August 24, 2016 (the "**2016 Order**") respecting the transfer of assets from the Sawridge Band Trust dated April 15, 1982 (the "**1982 Trust**") to the Sawridge Band Inter Vivos Settlement dated April 15, 1985 (the "**1985 Trust**"), more particularly described below.
2. Determination of the sufficiency of service of the 2016 Order.
3. Alternatively, the determination of the ability to perform a subsequent trust to trust transfer, similar to what was approved by the 2016 Order.

**Grounds for making this application:**

4. In 1982, the Sawridge Band decided to establish a formal trust in respect of property held in trust by individuals on behalf of the present and future members of the Sawridge band. On April 15, 1982, a declaration of trust establishing the 1982 Trust was executed.
5. On April 15, 1985, the trustees of the 1982 Trust resolved to transfer the assets of the 1982 Trust to the 1985 Trust (the "**1985 Transfer**").
6. In 2016, the Sawridge Trustees, the Office of the Public Guardian and Trustee and Catherine Twinn (collectively, the "**Parties**") agreed to the terms of the 2016 Consent Order respecting the 1985 Transfer.
7. On April 25, 2019, the Parties appeared before His Lordship Mr. Justice Henderson who advised of some concerns with respect to the 1985 Transfer, the consequences of the 2016 Order and the service of the 2016 Order.
8. On September 4, 2019, His Lordship Mr. Justice Henderson invited a party to draft and file an application to determine: "what flows from the 2016 Order, and whether, as a result of that order, the Trust assets are held subject to the terms of the 1985 Trust, whether the beneficiaries as described in the 1985 Trust are actually the beneficiaries of these Trust assets, and whether that took away the Trust obligation that existed in the 1982 Trust." (Transcript of Proceedings – September 4, 2019 26:3-8).
9. His Lordship also commented: "If it was as easy to change the terms of the Trust as to go ahead and do what was done between 1985 [sic] and 1985, why don't you just go ahead and do that very same thing again and see how far it gets you." (Transcript of Proceedings – September 4, 2019 13:13-15)
10. The Sawridge Trustees have volunteered to file the within application, consistent with The Court's invitation.

**Material or evidence to be relied on:**

11. Affidavits previously filed in this action;
12. Questionings filed in this action;
13. Undertakings filed in this action;
14. Affidavits of records and supplemental affidavits of records in this action;
15. Such further material as counsel may further advise and this Honourable Court may permit.

**Applicable rules:**

16. *Alberta Rules of Court*, Alta Reg 124/2010, Rules 4.11, 4.14, 6.3,
17. Such further and other rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts, regulations and Orders:**

18. *Trustee Act*, RSA 2000, c T-8, as amended;
19. Various procedural orders made in the within action;
20. Such further and other acts, regulations, and orders as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

21. None.

**How the application is proposed to be heard or considered:**

22. In person before the Case Management Justice.

**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 at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.