

September 22, 2021

File No.: 551860-1

The Honourable Mr. Justice J.T. Henderson Via Email
Court of Queen's Bench of Alberta
6th Floor, Law Courts Building
1A Sir Winston Churchill Square
Edmonton AB T5J 0R2

Your Lordship:

Re: Sawridge Trusts - Action 1103 14112 - Transfer Asset Issue
 Asset Transfer Application – September 27 and 28, 2021

We write further to the letter from Mr. Faulds sent on behalf of the OPGT on September 15, 2021.

We are grateful for the OPGT's suggestions, and their initiative has borne food for thought. We wish to point out two significant limitations with their proposal, but also to suggest two alternate solutions which are consistent with the spirit of the OPGT's suggestions.

Firstly, if the court merges or overlaps the definitions of beneficiary as suggested by the OPGT of the 1985 and 1986 Trusts then the very discrimination that is at the heart of this litigation will not be addressed. Rather, the same discriminatory language will continue to be used requiring potential beneficiaries to conform to an outdated definition from a portion of the *Indian Act* that is now defunct.

Secondly, the proposal of the OPGT would affect the 1986 Trust, which is not a party to this matter. The proposal suggests that the 1986 Trust, with all of its assets, be merged into one trust including the 1985 beneficiaries. This is problematic. While the Trustees may be the same for both trusts, the 1986 Trustees have not been given notice that the OPGT would like to expropriate the 1986 Trust's property for the benefit of additional beneficiaries.

Alternatively, there are two solutions that would both align with the spirit of the OPGT's proposal and dispense with the discrimination at the heart of this litigation. First, the Court could find that the definition of beneficiary from the 1982 Trust transferred with the assets to the 1985 Trust. In this case, the Court could further direct, in a separate application, a defined list of beneficiaries who met the 1985 Trust definition as of a specific date and time be added to the 1985 Trust (this is what the Trustees refer to as "grandfathering"). Secondly, the Court could find that the 1985 Trustees have the power to transfer the assets of the 1985 Trust to a new Trust that would incorporate a combination of the definition of beneficiary pursuant to the 1982 Trust deed with the defined list of beneficiaries that meet the definition of beneficiary in the 1985 Trust Deed as of a specific date and time. Either of these possibilities are consistent with the OPGT's proposal without affecting the 1986 Trust.

Finally, the OPGT references the Trustees' brief filed December 14, 2020 at paras 26-33 and suggests that their proposal is merely an extension or evolution of this proposal. With respect, the approach by the OPGT is materially different in that it significantly affects the rights of the 1986 Trust by unilaterally removing assets from that Trust into a separate trust.

The Trustees will speak further to this during the appearance on September 27 - 28, 2021.

Respectfully submitted,

Dentons Canada LLP



Doris Bonora Q.C.
Partner
DB/MSS

cc: (By Email)

McLennan Ross - Attention: Crista Osualdini/David Risling

Parlee McLaws – Attention: Edward Molstad, Q.C./Ellery Sopko

Hutchison Law – Attention: Janet Hutchison

Field Law – Attention: Jonathon Faulds

Dentons Canada – Michael Sestito, Rhonda Johnson

Shelby Twinn, Self-Represented