

April 8, 2022

File No.: 551860-1

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

VIA EMAIL Elise.Russell@albertacourts.ca

Your Lordship:

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

Further to your direction, we enclose an Order re: Advice and Direction on Transfer Issue Sawridge #12 for your signature.

Respectfully Submitted,

Dentons Canada LLP

Doris Bonora, Q.C.
Partner

DCEB/pao

cc All parties via email



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")

APPLICANT

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

DOCUMENT

**ORDER re: ADVICE AND DIRECTION ON TRANSFER
ISSUE Sawridge #12**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

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Attention: Doris C.E. Bonora and Michael Sestito
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File No: 551860-001-DCEB

DATE ORDER PRONOUNCED

FEBRUARY 4, 2022

LOCATION WHERE ORDER
PRONOUNCED

Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS
ORDER

Honourable Justice J.T. Henderson

ORDER

UPON ISSUES being raised by the Court at a Case Management meeting on April 25, 2019 and thereafter at multiple Case Management meetings, as to the interpretation of the August 24, 2016 Consent Order by Justice D.R.G. Thomas (the 2016 Consent Order);

AND UPON the Application, filed September 13, 2019, of the 1985 Sawridge Trustees for advice and direction in relation to the interpretation of the 2016 Consent Order as directed by the Court;

AND UPON the Court having reviewed and considered the materials and extensive Briefs filed by the parties and intervenors;

AND UPON the Court having heard and considered the oral submissions from the parties and intervenors on September 27 & 28, 2021;

AND UPON the Court providing its Memorandum of Decision (Sawridge #12) on February 4, 2022 (the "Decision");

THE COURT HEREBY provides the following advice and direction and orders that:

1. The 2016 Consent Order should be interpreted as meaning that it approved transfer of legal title in the 1982 Trust assets to the 1985 Trustees but that it did not approve transfer of the beneficial interest in those trust assets to the 1985 Beneficiaries.
2. The beneficial interest in the assets which was the subject of the 2016 Consent Order has not changed since 1982 and remains with the 1982 Beneficiaries on terms described in the 1982 Trust Deed.
3. The transfer of beneficial title is subject to the further direction given by Justice Thomas that the scope of the beneficiary class is yet to be finally determined and could potentially be expanded as a result of future applications specifically in relation to the need to modify the definition of Beneficiary so as to eliminate discrimination and also to determine whether "grandfathering" is possible. In addition, although not specified by Justice Thomas, there remains the possibility that the transfer of the beneficial interest in the trust assets to the 1985 Beneficiaries in whole or in part may be accomplished by a variation application made pursuant to s 42 of the Trustee Act.
4. The 1985 Trustees also hold the remaining 1985 Trust assets for the 1985 Beneficiaries. The 1982 Beneficiaries have an interest in only the 1982 Trust assets and do not have any interest in other assets that may have been placed in the 1985 Trust.
5. It is premature to provide any advice or direction respecting the 1985 Trustees' application for advice and direction to permit the 1982 Trust to be merged with the 1986 Trust.



The Honourable Mr. Justice J.T. Henderson