

To be met by date: Factum due date

(See the applicable Mandatory Requirements Check/Return Form

for an explanation of the enumerated conditions) /AO

COURT OF APPEAL OF ALBERTA

Form AP-5 [Rule 14.87]

COURT OF APPEAL FILE NUMBER: 2503-0193AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: 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 SAWRIGE FIRST NATION ON APRIL 15,  
1985, (the “1985 Sawridge Trust”)

APPLICANT(S): ROLAND TWINN, TRACEY SCARLETT, ROY  
TWINN, JONATHON POTSKIN AND BONNIE  
BLAKLEY, as Trustees for the 1985 Sawridge  
Trust

STATUS ON APPEAL: Respondent

RESPONDENT: CATHERINE TWINN

STATUS ON APPEAL: Appellant

RESPONDENT: OFFICE OF THE PUBLIC GUARDIAN AND  
TRUSTEE

STATUS ON APPEAL: Respondent

DOCUMENT: APPEAL RECORD

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Appeal from the Memorandum of Decision of the  
Honourable Justice J.S. Little  
Dated the 3<sup>rd</sup> day of September, 2025.

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**APPEAL RECORD**  
**PART 1 – PLEADINGS (Pages 4 to 7)**  
**PART 2 – FINAL DOCUMENTS (Pages 8 to 41)**

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Form 27  
Rule 6.3

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, andIN 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 0K4Attention: Michael S Sestito  
Telephone: (780) 423-7300  
Email: [Michael.sestito@dentons.com](mailto:Michael.sestito@dentons.com)  
File No: 551860-001-MSS**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: **To be Scheduled before Case Management Justice**  
 Time: **To be Scheduled before Case Management Justice**  
 Where: **Law Courts, 1A Sir Winston Churchill Square,  
 Edmonton, Alberta T5J 0R2**

Before Whom: **Justice J.S. Little**

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. An Order setting out the following:
  - a. Confirming the validity of the 1985 Sawridge Trust;
  - b. Affirming that notwithstanding that the definition of “Beneficiary” set out under the 1985 Sawridge Trust is discriminatory, and includes certain non-members of the Sawridge Nation, the Sawridge Trustees may proceed to make distributions to the Beneficiaries of the 1985 Sawridge Trust, including to non-members of the Sawridge First Nation who qualify as beneficiaries of the 1985 Sawridge Trust;
  - c. Approving the Distribution Proposal submitted by the Sawridge Trustees;
  - d. Confirming that the Office of the Public Guardian and Trustee has fully executed and satisfied its obligations, as of the date this Order is filed, imposed upon them by this Court;
  - e. Discharging the Office of the Public Guardian and Trustee from any further duties in relation to this Action;
  - f. Declaring that the indemnification and funding of the Office of the Public Guardian and Trustee, as set out in the Order of Justice Thomas, pronounced June 12, 2012, and filed September 20, 2012, is ended; and
  - g. Confirming that the litigation has concluded and that nothing in the Order negates the Sawridge Trustees’ ongoing duty to act in good faith in carrying out their duties and powers as defined in the 1985 Sawridge Trust, or the Beneficiaries’ ongoing right to enforce the bona fides of the Sawridge Trustees in the exercise of their powers and duties as outlined in the 1985 Sawridge Trust Deed.

**Grounds for making this application:**

2. In 2011, the Sawridge Trustees brought an application for advice and direction to the court seeking certain relief.
3. In 2012, the OPGT was appointed litigation representative for the 31 minors who are children of current Sawridge First Nation members as well as any minors who are children of applicants seeking to be admitted into membership of the Sawridge First Nation.
4. In 2015, the Court ordered the Trustees to present a distribution proposal and have it approved by the Court.

5. Also in 2015, the Court Ordered the OPGT to limit its role to four tasks:
  - a. Representing the interests of minor beneficiaries and potential minor beneficiaries to ensure that they receive fair treatment (either direct or indirect) in the distribution of the assets of the 1985 Sawridge Trust; and
  - b. Examining on behalf of the minor beneficiaries the manner in which the property was placed / settled in the Trust; and
  - c. Identifying potential but not yet identified minors who are children of Sawridge First Nation members or membership candidates as these are potentially minor beneficiaries of the 1985 Sawridge Trust; and
  - d. Supervising the distribution process itself.
6. In 2016, the application concerning the 1985 Sawridge Trust distribution proposal was adjourned *sine die*. The issue of the distribution proposal remains outstanding.
7. The Sawridge Trustees wish to begin distributing benefits to the 1985 Sawridge Beneficiaries.
8. The Sawridge Trustees have prepared a draft distribution proposal and have shared that draft with the parties.

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

9. The Distribution Proposal of the Sawridge Trustees;
10. Affidavits previously filed in this action;
11. Questionings filed in this action;
12. Undertakings filed in this action;
13. Affidavits of records and supplemental affidavits of records in this action;
14. Such further material as counsel may further advise and this Honourable Court may permit.

**Applicable rules:**

15. *Alberta Rules of Court*, Alta Reg 124/2010, Rules 1.2, 1.3, 1.4, 4.11, 4.14, 6.3,
16. Such further and other rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts, regulations and Orders:**

17. *Trustee Act*, SA 2022, c T-8.1, as amended;
18. Various procedural orders made in the within action;
19. 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:**

20. None.

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

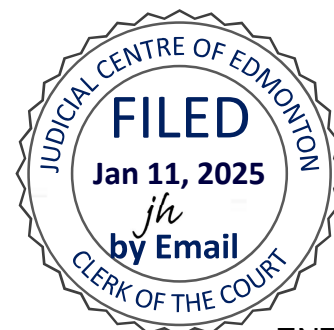
21. In person before the Case Management Justice.

**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.

COURT FILE NUMBER 1103 14112  
 COURT COURT OF KING'S BENCH OF ALBERTA  
 JUDICIAL CENTRE EDMONTON

Clerk's Stamp



IN THE MATTER OF THE TRUSTEE ACT,  
 RSA 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")

ENT

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

DOCUMENT CASE MANAGEMENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
**DENTONS CANADA LLP**  
 Attn: Michael Sestito  
 2500 Stantec Tower  
 10220 - 103 Avenue NW  
 Edmonton, AB T5J 0K4  
 Phone: 780-423-7300  
 Email: [michael.sestito@dentons.com](mailto:michael.sestito@dentons.com)  
 File: 551860-1/MSS

DATE THIS ORDER WAS PRONOUNCED: November 27, 2024  
 PLACE WHERE THIS ORDER WAS PRONOUNCED: Edmonton, Alberta  
 NAME OF JUSTICE WHO PRONOUNCED THIS ORDER: Justice J.S. Little

UPON the Case Management meeting; AND UPON review of an application for intervention status provided by the Sawridge First Nation (the "**Intervention Application**"); AND UPON hearing the submissions from counsel for the Sawridge Trustees, the Office of the Public Guardian and Trustee ("**OPGT**"), and the Sawridge First Nation; AND UPON hearing from Catherine Twinn who is self represented; AND UPON noting the Application from the Sawridge Trustees for certain relief filed June 28, 2024 (the "**Full Application**"); AND UPON being informed by the Sawridge Trustees that they wish to have the court adjudicate the threshold issue regarding paragraph 1(b) of the Full Application before the balance of the application is considered (the "**Threshold Application**"); AND UPON having heard from those noted above with respect to the timing of the Intervention Application and the Threshold Application;


**IT IS HEREBY ORDERED THAT:**

1. The Intervention Application shall be scheduled for a half day on April 4, ~~2024~~; 2025



2. The Sawridge First Nation, as Applicants in the Intervention Application, shall provide its brief on or before February 14, 2025;
3. The Respondents shall provide written briefs responding to the Intervention Application on or before March 14, 2025;
4. The Threshold Application shall be scheduled for a full day on June 16, 2025;
5. The Sawridge Trustees, as Applicants, shall file their written brief regarding the Threshold Application on April 16, 2025;
6. The Respondents shall provide written briefs responding to the Threshold Application on or before May 26, 2025; and,
7. Following the release of the decision regarding the Intervention Application, the parties and the Sawridge First Nation, should they be granted status as an intervenor, may contact the Court and the other parties, to request modification of the timetable for the Threshold Application.

## COURT OF KING'S BENCH OF ALBERTA





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Justice J.S. Little

## APPROVED AS TO FORM AND CONTENT BY:

KPMG LAW LLP / DENTONS CANADA LLP




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Doris C Bonora KC / Michael Sestito,  
Co-Counsel for the Sawridge  
Trustees

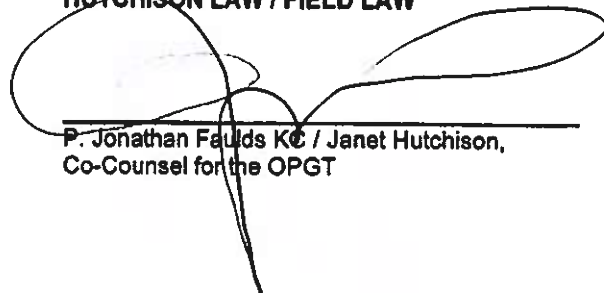
CATHERINE TWINN




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Catherine Twinn, Self-Represented

HUTCHISON LAW / FIELD LAW




---

P. Jonathan Faulds KC / Janet Hutchison,  
Co-Counsel for the OPGT

MCLENNAN ROSS LLP

---

Crista Osualdini, Counsel for the  
Sawridge First Nation

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5. The Sawridge Trustees, as Applicants, shall file their written brief regarding the Threshold Application on April 16, 2025;
6. The Respondents shall provide written briefs responding to the Threshold Application on or before May 26, 2025; and,
7. Following the release of the decision regarding the Intervention Application, the parties and the Sawridge First Nation, should they be granted status as an intervenor, may contact the Court and the other parties, to request modification of the timetable for the Threshold Application.

**COURT OF KING'S BENCH OF ALBERTA**


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Justice J.S. Little

**APPROVED AS TO FORM AND CONTENT BY:**

**KPMG LAW LLP / DENTONS CANADA LLP**

**CATHERINE TWINN**




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Doris C Bonora KC / Michael Sestito,  
Co-Counsel for the Sawridge  
Trustees

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Catherine Twinn, Self-Represented

**HUTCHISON LAW / FIELD LAW**

**MCLENNAN ROSS LLP**

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P. Jonathan Faulds KC / Janet Hutchison,  
Co-Counsel for the OPGT




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Crista Osualdini, Counsel for the  
Sawridge First Nation

COURT FILE NUMBER 1103 14112  
 COURT COURT OF KING'S BENCH OF ALBERTA  
 JUDICIAL CENTRE EDMONTON

Clerk's Stamp

IN THE MATTER OF THE TRUSTEE ACT,  
 RSA 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,  
 TRACEY SCARLETT, EVERETT JUSTIN  
 TWINN, AND DAVID MAJESKI, as Trustees for  
 the 1985 Sawridge Trust ("Sawridge Trustees")

DOCUMENT CASE MANAGEMENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**DENTONS CANADA LLP**  
**Attn: Michael Sestito**  
 2500 Stantec Tower  
 10220 - 103 Avenue NW  
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 Phone: 780-423-7300  
 Email: michael.sestito@dentons.com  
 File: 551860-1/MSS  
 And  
 Doris Bonora KC  
 Email : dorisbonora@kpmg.ca

DATE THIS ORDER WAS PRONOUNCED: April 4, 2025

PLACE WHERE THIS ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO PRONOUNCED THIS ORDER: Justice J.S. Little


UPON the Case Management Order pronounced November 27, 2024 (the "Case Management Order"); AND UPON review of an application for intervention status provided by the Sawridge First Nation (the "Intervention Application"); AND UPON hearing the submissions from counsel for the Sawridge Trustees, the Office of the Public Guardian and Trustee ("OPGT"), and the Sawridge First Nation; AND UPON hearing submissions from Catherine Twinn; AND UPON the Application from the Sawridge Trustees for certain relief filed June 28, 2024 (the "Full Application"); AND UPON being informed by the Sawridge Trustees that they wish to have the court adjudicate the threshold issue regarding paragraph 1(b) of the Full Application before the balance of the application is considered (the "Threshold Application");

IT IS HEREBY ORDERED THAT:

- 2 -

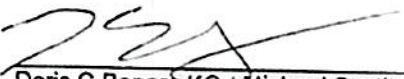
1. The Sawridge First Nation is granted status to intervene on the Threshold Application on the following conditions:
  - a. The Sawridge First Nation may file a written brief of law on or before May 26, 2025 of no more than 30 pages limited to arguments relating to the Threshold Application;
  - b. The Sawridge First Nation may be entitled to provide oral argument of no more than 60 minutes, or such further time as the Court may allow limited to arguments relating to the Threshold Application;
  - c. The Sawridge First Nation shall not be permitted to adduce any new evidence;
  - d. The Sawridge First Nation may not raise new issues in the Threshold application and may not raise issues that are not raised by the Applicants; and,
  - e. The Sawridge First Nation shall bear its own costs both for the purposes of its Intervention Application and for any participation in the Threshold Application.
2. The Sawridge First Nation's participation in any other part of the Full Application may be determined by consent of the Parties, failing which the Sawridge First Nation may apply for intervention at a later day.
3. The Threshold Application is scheduled for a full day on June 16, 2025. The Sawridge Trustees, as Applicants, shall file their written brief regarding the Threshold Application on April 16, 2025. The Respondents and the Sawridge First Nation shall provide written briefs responding to the Threshold Application on or before May 26, 2025.

## COURT OF KING'S BENCH OF ALBERTA

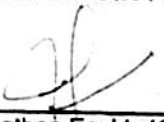
  
 Justice J.S. Little

## APPROVED AS TO FORM AND CONTENT BY:

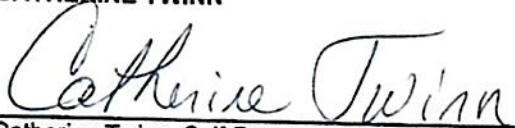
## KPMG LAW LLP / DENTONS CANADA LLP

  
 Doris C Bonora KC / Michael Sestito,  
 Co-Counsel for the Sawridge  
 Trustees

## HUTCHISON LAW / FIELD LAW

  
 P. Jonathan Faulds KC / Janet Hutchison,  
 Co-Counsel for the OPGT

## CATHERINE TWINN

  
 Catherine Twinn, Self-Represented

## MCLENNAN ROSS LLP

  
 Crista Osualdini, Counsel for the  
 Sawridge First Nation



## Court of King's Bench of Alberta

**Citation: Twinn v Alberta (Public Trustee), 2025 ABKB 276**

**Date:**

**Docket: 1103 14112**

**Registry: Edmonton**

In the Matter of the Trustee Act, RSA 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)

Between:

**Roland Twinn, Margaret Ward, Tracey Scarlett, Everett Justin Twin and David Majeski,  
As Trustees For the 1985 Sawridge Trust (Trustees)**

Applicants

- and -

**Catherine Twinn and Office of the Public Guardian and Trustee**

Respondents

- and -

**Sawridge First Nation**

Proposed Intervenor



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**Case Management Endorsement  
of the  
Honourable Justice J.S. Little**

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**I. Nature of the Application**

[1] Sawridge First Nation (SFN) has applied for intervenor status in an upcoming application to determine whether the Trustees may distribute funds pursuant to a trust, the beneficiaries of which include members of the SFN.

[2] At a full day hearing April 4, 2025, I granted the application, subject to certain terms proposed by the Trustees. I explained to the parties that I was doing so in order that they have sufficient time to prepare and make submissions for the substantive issue to be heard June 16, 2025 and that I would provide brief reasons before then. These are those reasons.

**II. Background**

[3] The background is set out in more detail in the Court of Appeal decision which, by setting aside a case management Order, effectively sent it back to this Court be re-heard: *Twinn v Alberta (Office of the Public Trustee)*, 2022 ABCA 368.

[4] Briefly, because in 1982 there was some uncertainty about how resource revenues from First Nations land could be held, which resulted in some members holding such revenues in trust for others, the then SFN Chief Walter Twinn established a trust (the 1982 Trust) to hold oil and gas revenues for beneficiaries defined as “all members, present and future, of the Band”. In 1985, in anticipation of the equality provisions of the Charter coming into effect, Parliament in Bill C-32 proposed statutory changes to band membership in an effort to remove what were considered discriminatory provisions in the Indian Act that had the effect of denying band membership to Indian women who married non-Indian men.

[5] Because this change would have expanded the membership of the SFN, Chief Walter Twinn, before Bill C-31 became law, created a new trust (the 1985 Trust) under which beneficiaries were defined as only those members of the SFN who qualified as members before the enactment of Bill C-31. The assets then held in the 1982 Trust were transferred to the 1985 Trust.

[6] The parties acknowledge that the definition of Beneficiaries in the 1985 Trust is discriminatory. In broad strokes, while there are other orders sought, the upcoming substantive application by the Trustees is to confirm whether, notwithstanding its discriminatory definition, the Trustees may make distributions to those Beneficiaries.

[7] The Trustees take the position that trust funds may be distributed among Beneficiaries defined as those people who were members of the Sawridge band two days before the expanded definition from Bill C-31.

- [8] SFN applies to intervene to argue that because of its discriminatory nature, distribution to the Beneficiaries is contrary to public policy and should not be permitted.
- [9] The Trustees do not oppose the intervention but seek to limit its scope.
- [10] The Office of the Public Guardian, whose role is to represent minor beneficiaries and potential beneficiaries, supports the position of the Trustees.
- [11] Catherine Twinn consents to the intervenor application.

### III. Test for Intervention

- [12] Rule 2.10 of the Alberta Rules of Court reads:

2.10 On application, a Court may grant status to a person to intervene in an action subject to any terms and conditions and with the rights and privileges specified by the Court.

As noted by Justice Macklin in *R v McKee*, 2023 ABKB 579:

[13] Intervenors at the trial level are rare. Appellate Courts are more willing and able to consider intervenor applications than a Court of first instance. Appellate Courts deal with a pre-established record that is not normally subject to change and are far better equipped to limit and control the length and nature of the submissions by intervenors. Trials, on the other hand, must remain manageable and the parties must be able to define the issues and the evidence on which they will be decided: *First Nations of Saskatchewan v Canada (Attorney General)*, 2002 FCT 1001 (Fed TD) at para 10; *Rab (RE)*, 2019 ABPC 178 at para 38.

- [13] Counsel for SFN refers to the test for intervention set out in *Wilcox v Her Majesty the Queen in right of Alberta*, 2019 ABCA 385 in which Feehan, JA, though dealing with intervention at the appellate level, neatly sets out the factors to be considered. Although the parties do not dispute SFN's entitlement to intervene, it is helpful to work through those factors to determine the extent of its intervention.

1. Whether the intervenor is directly affected.

- [14] If the definition of Beneficiaries in the 1985 Trust is determined not to be fatal to its distribution, certain members of the SFN will be excluded from the constituency determined to benefit from the 1985 Trust, and some non-SFN people may benefit. That can reasonably be expected to cause difficulties for SFN.

2. Whether the intervenor is necessary to properly decide the matter.

- [15] SFN in its brief emphasizes and gives examples of the kind of discrimination evident from the existing definition of Beneficiaries in the 1985 Trust. But I must keep in mind that my role in the substantive application is not to determine whether the trust is discriminatory – the parties acknowledge that it is. My role is limited to determining whether, as a result of that discrimination, distribution should not be permitted.

3. Whether the intervenor has interests in the proceedings that will not be fully protected.

[16] SFN represents constituents who may not be represented by other parties. The Office of the Public Guardian represents only minor Beneficiaries. Catherine Twinn would be a Beneficiary of the 1985 Trust no matter how that term is defined.

4. Whether the intervenor can contribute useful and different submission expertise.

[17] SFN's focus on this point is that the Court thus far has not received sufficient evidence on the scope of the discriminatory nature of the 1985 Trust and how many people are affected. I point out again that the parties have already acknowledged that the definition of Beneficiaries is discriminatory, and I have not yet received submissions from the parties on whether the degree of discrimination is material. In other words, it may be that the Trustees acknowledge that the discrimination is of the most severe kind but that because of the nature of the trust, even that degree does not prevent distribution.

[18] In its submissions, SFN gives a number of examples of how the definition of Beneficiaries discriminates against women and children of unmarried couples. Because the parties accept this interpretation of the trust deed and the legislation as ruled on by other courts referred to in SFN's material, no evidence is required.

[19] At this stage, therefore, I accept only that this claimed expertise may be necessary down the road. I do not accept that the further expert evidence SFN seeks to lead is necessary to the determination of the legal issue before me. The test is whether SFN's submissions can contribute – not whether its evidence is required. This is not a trial.

5. Whether the intervenor will unduly delay the proceedings.

[20] Here, it may be argued that SFN has already delayed the proceedings somewhat. Without the need for this application, the substantive application may have been set for an earlier date. But given the complexity of this litigation and its decades-old history, I do not find the matter of a few months to argue this intervenor application to have caused undue delay.

6. Whether the parties will suffer any possible prejudice.

[21] To the extent that the narrow issue does not require any additional evidence, I do not see any prejudice to the parties by having SFN make submissions, not on whether the definition is discriminatory but on whether the extent of the discrimination bears on whether distribution should be permitted.

7. Whether the intervenor will widen the dispute.

[22] Here, the dispute is narrowly defined, and the parties are well aware of the position of SFN. It has participated in the dispute throughout, and I am not persuaded that such participation has widened the gap between the parties' positions to date.

8. Whether the intervenor will transform the court into a political arena.

[23] I have more to say on this below. But here, the substantive issue is one of trust law. The political decision has already been made by Parliament respecting membership in bands generally. Chief Walter Twinn as settlor of the 1985 Trust took that into account in defining the Beneficiaries. The legal consequences of those decisions on what would otherwise be private rights need not become political.



[24] Weighing these factors, I am of the view that SFN ought to be able to intervene respecting the substantive issue.

[25] As support for this determination, an additional factor for consideration is whether the party was granted intervenor status in the proceedings below: *Suncor Energy Inc v Unifor Local 707A*, 2016 ABCA 265 at para 20.

[26] SFN has intervened in a number of applications in this matter at this court level: see 2018 ABQB 213, 2017 ABQB 548, 2017 ABQB 530, and 2017 ABQB 436. It was an intervenor in the application that gave rise to the appeal of the case management decision: 2022 ABQB 107. It was an intervenor at the Court of Appeal level in this action by consent order: (2203-0043AC and 2203 0045AC, May 5, 2022).

[27] Although the substantive application now before me is different than what was determined in the previous case management decision, SFN's history of successful intervenor applications strongly supports it being granted that status here.

#### **IV. Is There a Need for Conditions on SFN's Participation?**

[28] I have noted above that one of the factors for consideration is whether the intervenor will transform the court into a political arena. It was apparent during the SFN's extensive submissions during this application that it has much to say about the discriminatory, sexist, and racist nature of the Indian Act and the role that it played and continues to play in Canada's shameful colonial history. I accept that. But that is not the issue. The issue is whether, despite the acknowledgment by all parties that the definition of Beneficiaries is discriminatory, the Trustees are entitled to distribute the 1985 Trust to the Beneficiaries as defined by Chief Walter Twinn, the settlor of the Trust.

[29] Counsel for SFN urges me to interpret paragraph 3 of Justice Thomas's 2018 case management Order as requiring a more fulsome review of the extent of such discrimination.

[30] I reproduce the full text of that Order below:

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.

[31] As counsel for the Trustees points out, this litigation has proceeded on a point by point basis. The point before me is whether, as a matter of law, the Trustees are entitled to distribute. No party is yet claiming any relief. I have no desire to expand the scope of the June 16, 2025 application by pre-determining what relief, if any, SFN may be entitled to if my determination following that application is that the Trustees are entitled to make a distribution.

[32] Accordingly, I accept the position of the Trustees that while intervention by SFN should be permitted, the Court needs to attach certain conditions to its participation in order that determination of the substantive issue not turn into a debate about the failings of the Indian Act.

#### **V. Decision**

[33] Intervention by SFN is permitted subject to the following terms:

[34] The Trustees shall file their written brief by April 16, 2025 and the Respondents by May 26, 2025.

[35] SFN may submit a written brief of up to 30 pages by May 26, 2025. It shall be permitted oral argument of up to 60 minutes. It shall not adduce new evidence. It shall not raise issues not raised by the parties. It shall bear its own costs.

Heard on the 4<sup>th</sup> day of April, 2025.

**Dated** at the City of Edmonton, Alberta this 6<sup>th</sup> day of May, 2025.


---

**J.S. Little**  
**J.C.K.B.A.**

#### **Appearances:**

Doris C.E. Bonora, K.C.  
 Michael S. Sestito  
     for the Trustees Applicant

Janet Hutchison  
 Jonathan Faulds  
     Respondent - Office of the Public Guardian and Advisory Counsel to Public Trustee

Catherine Twinn  
     Self-represented Respondent

Crista Osualdini  
 David Risling  
 David Schulze  
 Nicolas Dodd  
     for the Proposed Intervenor – Sawridge First Nation

# Court of King's Bench of Alberta

**Citation: Twinn v Alberta (Public Trustee), 2025 ABKB 507**



**Date:**

**Docket:** 1103 14112

**Registry:** Edmonton

In the Matter of the *Trustee Act*, RSA 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)

Between:

**Roland Twinn, Margaret Ward, Tracey Scarlett, Everett Justin Twin and David Majeski,  
As Trustees For the 1985 Sawridge Trust (Trustees)**

Applicants

- and -

**Catherine Twinn and Office of the Public Guardian and Trustee**

Respondents

- and -

**Sawridge First Nation**

Intervenor

---

**Case Management Endorsement  
of the  
Honourable Justice J.S. Little**

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**I. Introduction**

[1] In this case management application, the applicant Trustees seek a direction that they may make distributions to the beneficiaries of a trust that they administer called the 1985 Sawridge Band Inter Vivos Settlement, more commonly called the 1985 Trust or the 1985 Sawridge Trust.

[2] The Office of the Public Guardian and Trustee (OPGT) supports the application.

[3] Ms. Twinn opposes the application.

[4] The Sawridge First Nation (SFN) as Intervenor argues that such distributions would have the effect of dividing the Nation and ultimately supports Ms. Twinn's opposition.

[5] This application is one of a seven step process proposed by the Trustees. Filed June 28, 2024, the full application seeks an Order:

- a. Confirming the validity of the 1985 Sawridge Trust;
- b. Affirming that notwithstanding that the definition of "Beneficiary" set out under the 1985 Sawridge Trust is discriminatory, and includes certain non-members of the Sawridge Nation, the Sawridge Trustees may proceed to make distributions to the Beneficiaries of the 1985 Sawridge Trust, including to non-members of the Sawridge First Nation who qualify as beneficiaries of the 1985 Sawridge Trust;
- c. Approving the Distribution Proposal to be submitted by the Sawridge Trustees;
- d. Confirming that the OPGT has fully executed and satisfied its obligations imposed by the Court, as of the date the Order is filed;
- e. Declaring that the indemnification and funding of the OPGT, as set out in the Order of Justice Thomas, pronounced June 12, 2012, and filed September 20, 2012, is ended; and
- f. Confirming that the litigation has concluded and that nothing in the Order negates the Sawridge Trustees' ongoing duty to act in good faith in carrying out their duties and powers as defined in the 1985 Sawridge Trust, or the Beneficiaries' ongoing right to enforce the bona fides of the Sawridge Trustees in the exercise of their powers and duties as outlined in the 1985 Sawridge Trust Deed.

[6] By Order filed January 11, 2025, step (b) above was to be determined before the balance of the relief sought. It may seem counterintuitive to determine distribution before validity. Ms. Twinn makes this point in her written submissions. I address that issue below.

## II. Background

[7] The background to this application is set out in the Court of Appeal decision respecting a related matter in this action reported at 2022 ABCA 368:

[2] The late Chief Walter Twinn decided that the Sawridge First Nation should invest some of its oil and gas revenues in income producing assets for the long-term benefit of the Band members. Prior to 1982 there was some uncertainty as to whether or how First Nations could hold business assets. As a result, some individual Band members held assets in their own names in trust for the First Nation.

[3] In 1982 it was resolved that ownership of these assets should be consolidated under one trust. Chief Walter Twinn therefore established the 1982 Sawridge Band Trust. The trustees were to be the Chief and Councillors of the Band. The beneficiaries were “all members, present and future, of the Band”. The Trustees were given “complete and unfettered discretion” to distribute the income and capital of the Trust “for the benefit of the beneficiaries”. The assets that had previously been held in trust by individual Band members were subsequently transferred to the 1982 Trust.

[4] On April 17, 1985 s. 15 of the *Canadian Charter of Rights and Freedoms* came into effect. In anticipation, the federal government had introduced Bill C-31, which would restore band membership to women who had married non-First Nations men and their children. That could potentially increase the number of members of the Sawridge First Nation, and thereby dilute the expectations of any existing members of sharing in the income and capital of the 1982 Trust.

[5] The Sawridge Band therefore resolved to create a new trust under which the beneficiaries would be limited to those Band members who qualified as members of the Sawridge Band prior to the enactment of Bill C-31. In other words, whereas the beneficiaries under the 1982 Trust were “all members, present and future, of the Band”, under the 1985 Trust the beneficiaries would only be “all those who qualified as members in accordance with the *Indian Act* two days prior to Bill C-31”. In furtherance of this objective, Chief Walter Twinn established the 1985 Sawridge Band Inter Vivos Settlement Trust. There were to be five trustees of the 1985 Trust, at least two of whom must be beneficiaries of that trust.

[6] By Resolution dated April 15, 1985, the Trustees of the 1982 Trust transferred all the 1982 trust assets to the 1985 Sawridge Band Inter Vivos Settlement Trust. As of the date of the Resolution the same persons were beneficiaries under both the 1982 Trust and the 1985 Trust...

[9] In 1986 the Sawridge First Nation created another trust. Few if any post-1985 assets were placed into the 1985 Trust, rather, they were all placed into the 1986 Trust. The definition of “beneficiaries” in the 1986 Trust was “all persons who at that time qualify as members of the Sawridge Indian Band under the laws of Canada in force from time to time”. In other words, new members, including the Bill C-31 women and their children, were beneficiaries of the 1986 Trust.

[8] Accordingly there are now two trusts. Beneficiaries of the 1985 Sawridge Trust, which holds assets derived up to 1985, are those people who qualified as members of the Sawridge

Band under the *Indian Act* before the 1985 amendments. Beneficiaries of the 1986 Trust, which holds assets derived post-1985, are those who qualify as members of the Sawridge Band as that membership may be determined under federal laws from time to time.

[9] Pursuant to the January 22, 2018 Consent Order of Justice Thomas, the parties agreed that the definition of Beneficiary in the 1985 Trust was 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”.

[10] The preamble to that January 22, 2018 Order includes that “the parties have agreed to resolve this specific question [implications of the discriminatory definition] on the terms herein, and no other issue or question is raised before the Court at this time, **including any question of validity of the 1985 Sawridge Trust**” (parentheses and emphasis added).

[11] The Trustees make clear that they intend to argue in later stages that the 1985 Sawridge Trust is valid because it meets the “three certainties” test of validity and has been determined to be valid by the Court of Appeal. But the question of whether a discriminatory definition of beneficiaries is a bar to distribution is distinct from whether the trust itself is valid. My role in this application is to deal solely with the application framed by the applicant and in the sequence requested by the applicant. If that means that I must assume the validity of the 1985 Sawridge Trust for the purposes of this application, I do so.

[12] This has been protracted litigation with heavy sociopolitical undercurrents. As those undercurrents have moved, so may the approach or strategy of a party have evolved. For that reason, I take nothing from the comments of any party during oral argument or in its written submissions that another party’s position does not now reflect the position of that party at an earlier stage in this litigation.

[13] Similarly, I take nothing from counsel for any party having taken what might be considered to be a different position in unrelated litigation. The role of counsel is to take instructions from his or her client and need not reflect the personal views of that counsel.

### III. Parties’ Positions

[14] The Trustees argue that there is no authority for the proposition that a private trust may not distribute to its beneficiaries on the ground that the definition of beneficiaries is discriminatory. They refer to their statutory obligations under s. 27(1)(a) of the *Trustee Act*, SA 2022, c T-8.1 (the Act) to act in accordance with the terms of the trust. The terms of the 1985 Sawridge Trust require that a determination be made that a beneficiary be of a class of people who qualified as Indians under federal legislation at a particular date. No other judgment call is required to be made by the Trustees, nor any discretion exercised.

[15] The OPGT, appointed to represent the interests of minor children, including those who are beneficiaries of the 1985 Sawridge Trust, agrees that there is no basis for court intervention respecting distribution from a private trust on the ground that its definition of beneficiaries is discriminatory.

[16] Ms. Twinn argues that the Trustees are attempting to “validate, normalize, perpetuate and continue discrimination and other Charter flagrant violations as a permanent feature of the 1985 Sawridge Trust.”

[17] The SFN builds on Ms. Twinn's argument that the rules for distribution under the 1985 Sawridge Trust are "structured to delegitimize female ancestry and emphasize racial purity" and cannot be condoned in modern Canadian society.

#### IV. Types of Trusts

[18] It is necessary to determine what kind of trust we are dealing with here.

[19] At common law, express trusts are created to effect an intention to have a person or persons hold property for the benefit of another or others (*Oosterhoff on Trusts: Text, Commentary and Materials*, 8<sup>th</sup> Edition, page 24) as distinguished from trusts that arise by implication of law.

[20] The 1985 Sawridge Trust clearly is an express trust.

[21] Express trusts are divisible into two types: trusts for persons and trusts for purposes. Trusts for persons are called private trusts. Trusts for purposes are called charitable trusts. (*Oosterhoff*, page 24).

[22] SFN refers to *Waters' Law of Trusts in Canada*, 5<sup>th</sup>, at page 356 which questions whether First Nations trusts seeded with taxpayer money are private or more in the nature of a public trust, such that they may be challenged on discriminatory grounds. The 1985 Sawridge Trust, however, is not seeded with taxpayer money but with resource revenues.

[23] SFN refers as well to *Keewatin Tribal Council Inc. v Thompson (City)*, 1989 CanLII 7267 (MB KB) where the court found that a trust established for various bands to hold property was a non-charitable purpose trust under Manitoba law. That case, however, dealt only with whether land held by a corporation for that trust was subject to municipal taxation or was exempt as being effectively a corporate vehicle for a tribe or body of Indians. Clearly it was. But I respectfully disagree with the learned judge that it was a form of non-charitable purpose trust. Based on the fact that the beneficiaries were named entities, by the *Oosterhoff* definition it would be a private trust because it is for named persons.

[24] Further, in Alberta, by virtue of section 77 of the Act, non-charitable purpose trusts cannot be contrary to public policy, ie discriminatory. But the 1985 Sawridge Trust may not qualify as a statutory non-charitable purpose trust here for other reasons as well:

Section 77(1) A person may create a trust that

(a) is for a non-charitable purpose that

- (i) is recognised by law as being capable of being a valid object of a trust, or
- (ii) is sufficiently certain to allow the trust to be carried out, is not contrary to public policy and is

(A) for the performance of a function of government in Canada,

or

(B) a matter specified by regulation,

and

- (b) does not create an equitable interest in any person. (underlining added)

[25] The 1985 Sawridge Trust names people, such that they have a beneficial interest as beneficiaries, and does not perform a government function.

## V. Nature of Discrimination

[26] Even assuming that the 1985 Sawridge Trust, as Ms. Twinn and SFN argue, is not one that fits neatly into either of the binary categories as a private or charitable trust, it is necessary to look at the nature of the discrimination.

[27] In her brief, Ms. Twinn traces the history of the definition of Indian in Canadian law. There is no need here for me to replicate the level of detail she provides. But briefly, until 1850 there was no definition: Indigenous people themselves determined membership in their communities by criteria including birth, marriage, adoption, residence, and other intangibles such as character, value, and skills.

[28] From 1850 until Confederation, legislation set out four classes of persons, including all people intermarried with Indians and living with them. That was later amended to exclude non-Indian men who married Indian women, to address a concern that those men were obtaining an advantage by gaining access to property and other rights.

[29] By 1857, the *Gradual Civilization Act* provided that Indian men who were enfranchised, meaning that they lost their Indian status, conferred that same loss on their wives and children. Over time, that principle was extended to Indian women who married non-Indians. And there were other legislative provisions in the *Indian Act* whereby marriage by a woman affected her Indian status and that of her children differently from how an Indian man and his children were affected.

[30] It is this kind of legislated sex-based discrimination that Ms. Twinn argues deprives certain Indigenous people of the tangible and intangible economic, educational, and health benefits available to others with Indian status.

[31] I accept that argument insofar as the public rights of Indians as Canadian citizens and members of Bands are concerned. But the application of that argument to the 1985 Sawridge Trust is less persuasive.

## VI. Public Policy Considerations Respecting Discrimination

[32] Courts are not shy about finding public policy to be a consideration in the interpretation or enforcement of charitable trusts. One example is *Canada Trust Co. v Ontario Human Rights Commission* [1990] OJ No 615 (CA), where the court struck out discriminatory provisions related to sex, race, and religion in a charitable trust, on the basis that they contravened public policy. The terms of the trust prohibited scholarships to non-white, non-Protestants. The Court of Appeal noted, however, that “[o]nly where the trust is a public one devoted to charity will restrictions that are contrary to the public policy of equality render it void.” (Page 49)

[33] But courts resist interfering with a person’s right to dispose of his or her property based on what objectively are discriminatory criteria. In *Spence v BMO Trust Company*, 2016 ONCA 196, a father’s will included a statement that he was not leaving anything to his daughter because he had had no communication with her for some time and she had shown no interest in him as a father. She brought external evidence that the break in their relationship had occurred years earlier because she had married a man outside of her race. That evidence was considered in the lower court and the will set aside on the basis that the evident racial discrimination was against



public policy. The Ontario Court of Appeal reviewed a number of cases where courts had invalidated testamentary gifts on public policy grounds where the gifts were conditioned:

These include cases involving: i) conditions in restraint of marriage and those that interfere with marital relationships, e.g., conditional bequests that seek to induce celibacy or the separation of married couples; ii) conditions that interfere with the discharge of parental duties and undermine the parent-child relationship by disinheriting children if they live with a named parent; iii) conditions that disinherit a beneficiary if she takes steps to change her membership in a designated church or her other religious faith or affiliation; and iv) conditions that incite a beneficiary to commit a crime or to do any act prohibited by law. (para 55, footnotes omitted)

[34] Finding, first, that extrinsic evidence ought not to have been admitted, the Court of Appeal held also that it was only in circumstances where the discrimination required the beneficiary to act a certain way or the administrator to act in a manner that was contrary to public policy that a court should intervene in a private distribution of wealth.

[35] There is nothing in the terms of the 1985 Sawridge Trust that require potential beneficiaries to act in a manner contrary to public policy nor, despite the arguments of the SFN, that requires the trustees to act in a manner contrary to public policy. They are bound by the definition of beneficiaries in the 1985 Sawridge Trust and have no discretion to vary that definition to prejudice or favour anyone not included in it.

## VII. Mitigating the Effect of Discrimination of the 1985 Sawridge Trust

[36] Chief Walter Twinn established the 1982 Trust because it was not clear that Indians could hold title to property. He found a legal mechanism to have that property held by a trust for the benefit of his people, then just defined as members of the Band. When he determined that as a result of the coming into force of equality provisions in the Charter there would be more people entitled to be members of the Band and thereby entitled to benefit under the trust, he made the conscious decision to freeze the definition of the people who could benefit from the trust by reference to the definition used in the *Indian Act* before proposed changes to that Act, to make it Charter compliant, would expand membership in the Band.

[37] As the settlor of a private trust, adopting the reasoning of the Ontario Court of Appeal in *Canada Trust Co.* that discrimination in a private trust is not litigable, he was entitled to so define its beneficiaries. Indeed, in his capacity as Chief of a constituency as then defined by the *Indian Act*, it is arguable that he was obliged to do so.

[38] But he also created a new trust to look after the interests of that expanded group of people, which would include both those people defined by reference to the old *Indian Act* provisions and the new. Ms. Twinn points out that those provisions since have been amended numerous times, validating Chief Walter Twinn's concerns. Freezing the definition of beneficiaries based on valid federal legislation cannot be the kind of offensive discrimination which should cause the court to interfere with a conscious decision of the leader of a people who was trying to protect their interests, particularly while creating a new vehicle for what he knew would be a larger group of people defined by different criteria.

[39] Defining beneficiaries based on legislation which limits entitlement to particular Indigenous people, recognizing that a change was coming that would expand entitlement to a greater number of Indigenous people, while discriminatory, is not discrimination analogous to an

entitlement that requires beneficiaries to refrain from certain behaviour or make choices such as celibacy, residence with a particular parent, membership in a certain religion, or the commission of a crime.

[40] The situation in the present case is analogous to that found in *Taylor et al v Ginoogaming First Nation*, 2019 ONSC 328. There, payments were to be made from a trust based on band membership as of a fixed date. That definition of membership was found to be discriminatory. The band sought advice and direction. Justice Nieckarz, after reviewing case law including *Canada Trust Co* and *Spence*, together with a number of cases involving distributions to Indigenous people as defined by references to the *Indian Act* over different periods of time, found that the discrimination which might prevent distributions based on public policy must be of a sort that discriminated against members of a certain group by virtue of characteristics within that group, such as non-payment of interest to minors otherwise entitled to distributions (*Blueberry Interim Trust, Re*, 2011 BCSC 769), or determinations by the trustees to withhold distributions to only certain members otherwise entitled to payments (*Barry v Garden River Band of Ojibways* (1997 ACWC (3d) ONCA). She held that:

In light of the foregoing, I find that the payments provided for in Article 12.5 are not extended to any individuals who became a member of Ginoogaming after December 15, 2001, even if they should have otherwise been a member on that date but for the discriminatory provisions of the *Indian Act*. (para 51)

[41] In other words, discrimination by virtue of characteristics within a defined group or discrimination by the trustees in making distributions within a defined group is the kind of discrimination in a private trust that may permit intervention by the courts. Defining the group by reference to federal legislation at a given date does not.

## VIII. Conclusion

[42] Both Ms. Twinn and the SFN in their briefs and in their oral submissions decry the treatment of First Nations people, as evidenced in part by provisions of the *Indian Act* that even today perpetuate sexism and racism and, in the case of the 1985 Sawridge Trust, inevitably create division within the SFN:

They [the Trustees] say there is no case law preventing them from administering Charter flagrant rules which courts have consistently pronounced as assimilationist. The Trustee approach is problematic because it continuously divides Sawridge Trust beneficiaries using racist and colonial rules, played out in an ongoing cat and mouse litigation process that decapitates the long term interests of reconciliation within the Sawridge First Nation as between its members and Trust beneficiaries. The Threshold application seeks to validate the 1970 *Indian Act* divisive rules, to the detriment of long-term collective interests of the Sawridge people. The application promotes a continual doctrinal slippage away from the recognition of constitutional rights and freedoms. (Twinn brief at para 266, parentheses added)

[43] But trust law in and of itself is not capable of addressing these concerns. Chief Walter Twinn as leader and as settlor of both the 1985 Sawridge Trust and the 1986 Trust was well aware of the implications of his actions. He intentionally created two trusts and two classes of beneficiaries. As a member of both groups, he chose how to define the beneficiaries. He did so

by reference to an admittedly discriminatory, colonial statute. But that was the action of a person defined by that discriminatory, colonial statute. It was not the action of the state.

[44] His decision does not invalidate the right and obligation of the trustees of both trusts to honour the terms of those trusts, including the making of distributions to the beneficiaries as defined in their respective trust agreements.

[45] The Trustees may make distributions to the beneficiaries of the 1985 Sawridge Trust as they are defined in it.

[46] Thank you to all counsel for their extensive briefs and their oral advocacy.

Heard on the 16<sup>th</sup> day of June, 2025.

**Dated** at the City of Edmonton, Alberta this 3<sup>rd</sup> day of September, 2025.



---

**J.S. Little**  
**J.C.K.B.A.**

**Appearances:**

Doris C.E. Bonora, K.C. - KPMG  
Michael S. Sestito – Dentons  
for the Applicant Trustees

Janet Hutchison – Hutchison Law  
Jonathan Faulds – Field LLP  
for the Respondent - Office of the Public Guardian Trustee

Catherine Twinn  
Self-represented Respondent

Crista Osualdini - McLennan Ross  
David Risling – McLennan Ross  
David Schulze – Dionne Schulze  
Nicolas Dodd – Dionne Schulze  
for the Intervenor – Sawridge First Nation

## COURT OF APPEAL OF ALBERTA

Form AP-1

[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 2503-0193AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: 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(S): ROLAND TWINN, EVERETT JUSTIN TWIN, MARGARET WARD, TRACEY SCARLETT and DAVID MAJESKI, as Trustees for the 1985 Sawridge Trust

STATUS ON APPEAL: Respondent

RESPONDENT: CATHERINE TWINN

STATUS ON APPEAL: Appellant

RESPONDENT OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE

STATUS ON APPEAL: Respondent

INTERVENOR SAWRIDGE FIRST NATION

STATUS ON APPEAL: Intervenor - Respondent

- 2 -

**DOCUMENT: CIVIL NOTICE OF APPEAL**

APPELLANT'S  
ADDRESS FOR  
SERVICE AND  
CONTACT  
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**WARNING**

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

**1. Particulars of Judgment, Order or Decision Appealed From:**

Date pronounced: September 3, 2025

Date entered: Presently unfiled

Date served: Presently unfiled

Official neutral citation of reasons for decision, if any:

*Twinn v Alberta (Public Trustee)*, 2025 ABKB 507

(Attach a copy of order or judgment: Rule 14.12(3). If a copy is not attached, indicate under item 14 and file a copy as soon as possible: Rule 14.18(2).)

**2. Indicate where the matter originated:**

☒ **Court of King's Bench**

Judicial Centre: Edmonton

Justice: J.S. Little

On appeal from a King's Bench Applications Judge or Alberta Court of Justice Judge?: ☐ Yes ☒ No

Official neutral citation of reasons for decision, if any, of the Applications Judge or Alberta Court of Justice Judge: (do not attach copy) \_\_\_\_\_

- 3 -

(If originating from an order of a King's Bench Applications Judge or a Justice of the Court of Justice, a copy of that order is also required: Rule 14.18(1)(c).)

☐ **Board, Tribunal or Professional Discipline Body**

Specify Body: \_\_\_\_\_

**3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).**

☒ Permission not required, or ☐ Granted:

Date: \_\_\_\_\_

Justice: \_\_\_\_\_

(Attach a copy of order, but not reasons for decision.)

**4. Portion being appealed (Rule 14.12(2)(c)):**

☒ Whole, or

☐ Only specific parts (if specific part, indicate which part):

(Where parts only of a family law order are appealed, describe the issues being appealed, e.g. property, child support, parenting, etc.).

**5. Provide a brief description of the issues:**

This appeal arises from an application for advice and direction by the trustees of the 1985 Sawridge Trust, as they then were, asking the Court to affirm that notwithstanding that the definition of "Beneficiary" set out under the 1985 Sawridge Trust is discriminatory, the trustees may proceed to make distributions to the beneficiaries. The Learned Case Management Justice granted the order and, in so doing, made errors of law, mixed fact and law, and fact, in regard to the following matters:

1. Failing to consider pertinent facts, context and law and correctly characterize the *sui generis* nature of the 1985 Sawridge Trust;
2. Incorrectly applying the law pertaining to private trusts to the 1985 Sawridge Trust;
3. Incorrectly construing the discrimination caused by the terms of the 1985 Sawridge Trust, which has continuing and renewed effects for the entire duration of the trust;

- 4 -

4. Ratifying the gender and related discrimination incorporated in the 1985 Sawridge Trust's beneficiary definition comprised of unconstitutional and repealed provisions of the Indian Act, 1970, contrary to public policy and human rights freedoms and protections;
5. Misapprehending the "*judgement call and discretion*" actually exercised by Trustees in their selective application of the discriminatory rules, further compromised by the repeal of Indian Act provisions that operated in conjunction with the repealed discriminatory rules;
6. Incorrectly finding that the Trust "*names people such that they have a beneficial interest*" when the Trustees, for 40+ years, failed to cause a fair, competent, objective identification of beneficiaries consistent with due process;
7. Failing to consider pertinent facts, context and law leading to an incorrect finding that the Sawridge Trust does not perform a government function or a function related to government, which would effectively allow a public body to use a private trust to engage in illegal discrimination;
8. Enabling the wrongful appropriation of First Nation wealth to benefit persons who are not Indians and Sawridge members while excluding some 75% of current Sawridge Band members as beneficiaries;
9. Such further and other matters as shall be raised at the hearing of this appeal.

**6. Provide a brief description of the relief claimed:**

That the declaration of the Honourable Justice J.S. Little that the Trustees may make distributions from the 1985 Trust notwithstanding that the trust deed is discriminatory be set aside and an award entered:

1. Declaring that the 1985 Sawridge Trust is a *sui generis* or a special form of non-charitable purpose trust or both;
2. Declaring that the 1985 Sawridge Trust offends public policy such that beneficial distributions may not be made under same;
3. The parties are to return to Case Management for an application to determine the effect of the 1985 Sawridge Trust violating public policy.

Full solicitor/client costs to be awarded to the Appellant from the 1985 Sawridge Trust assets.

- 5 -

7. **Is this appeal required to be dealt with as a fast track appeal?** (Rule 14.14)  
☐ Yes ☒ No
8. **Does this appeal involve the custody, access, guardianship, parenting time, decision-making responsibility, contact or support of a child?** (Rule 14.14(2)(b))  
☐ Yes ☒ No
9. **Will an application be made to expedite this appeal?**  
☐ Yes ☒ No
10. **Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate?** (Rule 14.60)  
☐ Yes ☒ No
11. **Could this matter be decided without oral argument?** (Rule 14.32(2))  
☐ Yes ☒ No
12. **Are there any restricted access orders or statutory provisions that affect the privacy of this file?** (Rules 6.29, 14.12(2)(e), 14.83)  
☐ Yes ☒ No

If yes, provide details: \_\_\_\_\_  
(Attach a copy of any order.)



**13. List Respondent(s) or counsel for the Respondent(s), with contact information:**

Ronald Twinn, Margaret Ward, Tracey Scarlett, Everett Justin Twin and David Majeski as Trustees for the 1985 Sawridge Trust

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**14. Attachments (check as applicable)**

- ☐ Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))
- ☐ Earlier order of Applications Judge, etc. (Rule 14.18(1)(c))
- ☐ Order granting permission to appeal (Rule 14.12(3)(a))
- ☐ Copy of any restricted access order (Rule 14.12(2)(e))

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## COURT OF APPEAL OF ALBERTA

Form AP-1

[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 2503-0193AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: Edmonton

Registrar's Stamp

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(S): ROLAND TWINN, ~~EVERETT JUSTIN TWIN,~~  
~~MARGARET WARD,~~ TRACEY SCARLETT and  
~~DAVID MAJESKI,~~ ROY TWINN, JONATHON  
POTSKIN AND BONNIE BLAKLEY, as Trustees for  
the 1985 Sawridge Trust

STATUS ON  
APPEAL:

Respondent

RESPONDENT:

STATUS ON  
APPEAL:

CATHERINE TWINN

RESPONDENT

Appellant

STATUS ON  
APPEAL:

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE

Respondent

~~INTERVENOR~~

~~STATUS ON  
APPEAL:~~

~~SAWRIDGE FIRST NATION~~

~~Intervenor Respondent~~

- 2 -

DOCUMENT: **AMENDED CIVIL NOTICE OF APPEAL**

APPELLANT'S  
ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION

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**WARNING**

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

**1. Particulars of Judgment, Order or Decision Appealed From:**

Date pronounced: September 3, 2025

Date entered: Presently unfiled

Date served: Presently unfiled

Official neutral citation of reasons for decision, if any:

*Twinn v Alberta (Public Trustee)*, 2025 ABKB 507

(Attach a copy of order or judgment: Rule 14.12(3). If a copy is not attached, indicate under item 14 and file a copy as soon as possible: Rule 14.18(2).)

**2. Indicate where the matter originated:**

☒ **Court of King's Bench**

Judicial Centre: Edmonton

Justice: J.S. Little

On appeal from a King's Bench Applications Judge or Alberta Court of Justice Judge?: ☐ Yes ☒ No

Official neutral citation of reasons for decision, if any, of the Applications Judge or Alberta Court of Justice Judge: (do not attach copy) \_\_\_\_\_

- 3 -

(If originating from an order of a King's Bench Applications Judge or a Justice of the Court of Justice, a copy of that order is also required: Rule 14.18(1)(c).)

☐ **Board, Tribunal or Professional Discipline Body**

Specify Body: \_\_\_\_\_

**3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).**

☒ Permission not required, or ☐ Granted:

Date: \_\_\_\_\_

Justice: \_\_\_\_\_

(Attach a copy of order, but not reasons for decision.)

**4. Portion being appealed (Rule 14.12(2)(c)):**

☒ Whole, or

☐ Only specific parts (if specific part, indicate which part):

(Where parts only of a family law order are appealed, describe the issues being appealed, e.g. property, child support, parenting, etc.).

**5. Provide a brief description of the issues:**

This appeal arises from an application for advice and direction by the trustees of the 1985 Sawridge Trust, as they then were, asking the Court to affirm that notwithstanding that the definition of "Beneficiary" set out under the 1985 Sawridge Trust is discriminatory, the trustees may proceed to make distributions to the beneficiaries. The Learned Case Management Justice granted the order and, in so doing, made errors of law, mixed fact and law, and fact, in regard to the following matters:

1. Failing to consider pertinent facts, context and law and correctly characterize the *sui generis* nature of the 1985 Sawridge Trust;
2. Incorrectly applying the law pertaining to private trusts to the 1985 Sawridge Trust;
3. Incorrectly construing the discrimination caused by the terms of the 1985 Sawridge Trust, which has continuing and renewed effects for the entire duration of the trust;

- 4 -

4. Ratifying the gender and related discrimination incorporated in the 1985 Sawridge Trust's beneficiary definition comprised of unconstitutional and repealed provisions of the Indian Act, 1970, contrary to public policy and human rights freedoms and protections;
5. Misapprehending the "*judgement call and discretion*" actually exercised by Trustees in their selective application of the discriminatory rules, further compromised by the repeal of Indian Act provisions that operated in conjunction with the repealed discriminatory rules;
6. Incorrectly finding that the Trust "*names people such that they have a beneficial interest*" when the Trustees, for 40+ years, failed to cause a fair, competent, objective identification of beneficiaries consistent with due process;
7. Failing to consider pertinent facts, context and law leading to an incorrect finding that the Sawridge Trust does not perform a government function or a function related to government, which would effectively allow a public body to use a private trust to engage in illegal discrimination;
8. Enabling the wrongful appropriation of First Nation wealth to benefit persons who are not Indians and Sawridge members while excluding some 75% of current Sawridge Band members as beneficiaries;
9. Such further and other matters as shall be raised at the hearing of this appeal.

**6. Provide a brief description of the relief claimed:**

That the declaration of the Honourable Justice J.S. Little that the Trustees may make distributions from the 1985 Trust notwithstanding that the trust deed is discriminatory be set aside and an award entered:

1. Declaring that the 1985 Sawridge Trust is a *sui generis* or a special form of non-charitable purpose trust or both;
2. Declaring that the 1985 Sawridge Trust offends public policy such that beneficial distributions may not be made under same;
3. The parties are to return to Case Management for an application to determine the effect of the 1985 Sawridge Trust violating public policy.

Full solicitor/client costs to be awarded to the Appellant from the 1985 Sawridge Trust assets.

- 5 -

7. **Is this appeal required to be dealt with as a fast track appeal?** (Rule 14.14)  
☐ Yes ☒ No
8. **Does this appeal involve the custody, access, guardianship, parenting time, decision-making responsibility, contact or support of a child?** (Rule 14.14(2)(b))  
☐ Yes ☒ No
9. **Will an application be made to expedite this appeal?**  
☐ Yes ☒ No
10. **Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate?** (Rule 14.60)  
☐ Yes ☒ No
11. **Could this matter be decided without oral argument?** (Rule 14.32(2))  
☐ Yes ☒ No
12. **Are there any restricted access orders or statutory provisions that affect the privacy of this file?** (Rules 6.29, 14.12(2)(e), 14.83)  
☐ Yes ☒ No

If yes, provide details: \_\_\_\_\_  
(Attach a copy of any order.)

- 6 -

**13. List Respondent(s) or counsel for the Respondent(s), with contact information:**

~~Roland Ronald Twinn, Margaret Ward, Tracey Scarlett, Everett Justin Twin and David Majeski~~ **Roy Twinn, Jonathon Potskin and Bonnie Blakley**, as Trustees for the 1985 Sawridge Trust

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