

SAWRIDGE FIRST NATION STATEMENT ON FINANCIAL TRANSPARENCY
Ratified by the Assembly of the Sawridge First Nation January 17, 2015

The Sawridge First Nation is unable to comply with Canada's *First Nations Financial Transparency Act* since this would be a violation of the Constitution of the Sawridge First Nation.

The Constitution of the Sawridge First Nation was passed by the Members of the Sawridge First Nation on August 24, 2009. The Members of the First Nation had met dozens of times over many years to draft the Constitution. The Sawridge Constitution provides a system of Financial Accountability by the Chief and Council to the Members of the Sawridge First Nation and provides that the financial information of the Sawridge First Nation is confidential. The Constitution reflects the fact that the publication of the financial information of the Sawridge First Nation would cause harm to the First Nation and would not materially advance the Financial Accountability of the First Nation to its members. If the Council of the Sawridge First Nation were to publish the Financial Statements of the First Nation as required by the *Act*, it would be in violation of the Constitution. The Council of the First Nation has a duty to uphold the Sawridge Constitution.

The Sawridge Constitution is protected by Section 35 of the *Constitution Act (Canada) 1982*

The Sawridge Constitution was passed pursuant to the inherent right of the Sawridge First Nation to govern itself. That right is an existing aboriginal and treaty right of the Sawridge First Nation, which is protected by Section 35 of the *Constitution Act (1982) (Canada)*. The *Financial Transparency Act (Canada)* does not apply to the Sawridge First Nation as it is inconsistent with the exercise by the Sawridge First Nation of its protected inherent right to self-govern itself in relation to its own resources. Canada cannot pass legislation that violates the rights protected by Section 35.

The Council of the Sawridge First Nation is accountable to its Members. The Members determine the remuneration of the Council.

The Sawridge Constitution established the Assembly of the Sawridge First Nation. The Assembly of the Sawridge First Nation is made up of ALL of the adult Members of the First Nation and is the legislative body of the First Nation. The Budget, Financial Statements and Audit Report of the Sawridge First Nation are presented to the Members of the First Nation at an Assembly each year, and Members are free to ask questions during the confidential presentations. Members may also access the Financial Statements, Audit Report and Budget at the First Nation Office on a confidential basis. Additionally, members have the opportunity at each Assembly meeting to ask questions during question period, make motions, table legislation, present petitions or request emergency debates. As each adult member of the Sawridge First Nation is a member of the Assembly, they have significant access to, and collectively, control over the finances of the First Nation.

The Remuneration, Benefits and other Conditions of Employment of the Council, and others, is reviewed by the elected Audit and Compensation Committee of the Sawridge First Nation, and its report and recommendations are presented to the Assembly for ratification.

Sawridge does account to the Government of Canada and other third parties for any funding that they provide.

The Constitution does permit the First Nation to be accountable for funds it receives from third parties and as such Sawridge continues to account to the Government of Canada and others for funds that it receives from them through Special Audits. The Sawridge First Nation receives a relatively small amount of funds indirectly from the Government of Canada for programs and services provided to its Members. None of the funds received from the Government of Canada is used to pay the remuneration of the Chief and Council. If the Government of Canada wishes to publish the Special Audits provided by the First Nation, it is free to do so. We note that the Government of Canada has posted some of the Special Audits on its website.

Disclosure of financial information about First Nation business interests could unfairly impact the First Nation's business interests and provide competitors with an advantage.

The Sawridge First Nation has a number of business interests that compete with other private businesses. Sawridge's competitors are not required to publish their financial information. If Sawridge were to publish its consolidated financial information, its competitors may use that information to their advantage. It would be unfairly detrimental if Sawridge were required to publish such information.

Sawridge has been pursuing Self-Government for over 26 years, but the Government of Canada has stalled this process.

In 1988 the First Nation provided Canada with a proposal for Self-Government. That proposal led to a Framework Agreement in 1989 and an Agreement in Principle in 1991. The Government of Canada worked on seven different drafts of a Bill which was intended to implement the Agreement in Principle, before deciding to abandon the Agreement. Sawridge along with other First Nations made an effort to have a Self-Government Bill passed through the Senate of Canada on many occasions, but those Bills have never been passed. Recently the Sawridge First Nation provided Canada with a fresh proposal for Self Government, but Canada has yet to proceed with negotiations in respect of that proposal. Sawridge will continue to exercise its inherent right to self-government while continuing to seek formal recognition from Canada.

The Federal Court of Canada has confirmed that the Financial Information of the Sawridge First Nation is confidential.

Sawridge was one of the First Nations involved in a decision reported as Montana v. Canada [1989]. In that case the Federal Court of Appeal confirmed that the Financial Statements of the Sawridge First Nation were confidential. This was confirmed by the Federal Court of Appeal in a case entitled Sawridge Band v. The Minister of Indian Affairs and Northern Development [2009].