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CANADA

Sawridge Nation affiliate members asking Ottawa to allow them to form their own band

By **Shari Narine**, Local Journalism Initiative Reporter, Windspeaker.com

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By the end of March, Indigenous Services Canada should have received a letter from Sawridge affiliate members (SAM) requesting a new band be created for them. They “would like to split away” from the Sawridge Indian Band (SIB).

Ceno Loyie-Clark, who is leading the charge, says SAM have never been allowed full membership in SIB.

“I’ve been standing on the gate for 30 years,” said Loyie-Clark. “There’s 475 of us on the edge. None of us have ever lived there.”

Loyie-Clark, like the others, are registered Indians affiliated with the Sawridge First Nation located in northern Alberta, but they are not included on SIB’s membership list. SIB has about 45 members.

Membership in SIB became an issue back in 1985 when Bill C-31 was passed. That bill amended the Indian Act to, among other things, allow the status of Indian women, and that of their children, to be reinstated after it was lost when marrying non-Indian men.

At that time, then-chief Walter Twinn had built a band-owned business empire as a result of oil and gas discovered on Sawridge land. Two trust funds were created to control the band’s income and two days before Bill C-31 was passed, Twinn locked the band’s assets in those trust funds. Court documents in 2019 estimated those funds to be in excess of \$140 million.

In numerous court cases since 1985, Twinn and SIB argued they were not opposed to the women and their children regaining Indian status, but that they would not be told by the government who was a member of their band.

To that end, SIB used Sect. 10 of the Indian Act, which states “a band may assume control of its own membership if it establishes membership rules...” to create its membership list.

It’s the same argument SIB has used to exclude people who received Indian status under Bill S-3. That amendment to the Indian Act addressed the inequities of how Indian status is passed on, or not passed on, to cousins in the same family or to children born out of wedlock to Indian women.

With SIB determining its own membership criteria, Loyie-Clark says his hand was forced. Despite his mother being a first cousin to Walter Twinn, Loyie-Clark is still not a full member of the band. Although he admits, he was “never that stupid” to try and get his band membership.

To become a member is a lengthy, impossible process, he says, which involves “knowing who lived in your home when you were a baby,” and includes other detailed information like employment, medical and legal histories.

“The government allowed (SIB) to set up the racist band application process that goes against the Charter of Rights and Freedoms and the government has allowed this to go on for 35 years,” he said.

Since SIB won’t accept the affiliate members as full members, Loyie-Clark says more than 70 SAMs will be asking ISC to utilize Sect. 17 of the Indian Act, which allows the minister to constitute new bands “from existing Band Lists, or from the Indian Register, if requested to do so by persons proposing to form the new bands.”

“The minister may let us have some of the land (on Sawridge First Nation) because there’s two chunks of land that nobody’s living on, but we’re never going to get any of the money,” said Loyie-Clark. “We’re not going to ask for any of the money or for land. There’s enough land in northern Alberta.”

It’s Loyie-Clark’s intention to implement an Indigenous lease transformation program that he designed “for me and my cousins” that makes use of depleted oilfield leases.

Loyie-Clark says the timing is right for such a venture. Last year the federal government committed \$1.7 billion to Alberta, BC and Saskatchewan for orphan well clean up and site reclamation.

As far as Loyie-Clark is concerned, these sites don’t belong to any existing band as part of any traditional territory.

However, Sect. 17 of the Indian Act states, “Where ... a new band has been established from an existing band or any part thereof, such portion of the reserve lands and funds of the existing band as the Minister determines shall be held for the use and benefit of the new band.”

“They would have to carve out space for themselves within the confines of that piece of land. That’s the only jurisdiction the federal minister has. Otherwise the province of Alberta has jurisdiction over the land outside the reserve,” said Rob Louie, who at the request of Loyie-Clark is supporting SAM’s endeavours.

Louie is president of Band Members Alliance and Advocacy Association of Canada (BMAAAC), a newly created organization that offers its services free of charge to band members who have concerns about alleged unethical behaviour of leadership.

“The affiliate members do not need legal representation to form their own band as this is a political matter that will be resolved in the political arena,” said Louie.

However, BMAAAC is supporting SAM’s efforts with legal research and Louie will be setting up Zoom calls for tripartite negotiations between SAM, the federal government, and SIB.

“We are throwing our full support behind those 400-plus affiliate Sawridge members so that they, too, may form their own band and become masters in their own house. Currently, they are living in a two-tier membership system: have and have-not. And the 400-plus affiliate members of Sawridge have not seen any benefit, whereas 42 regular members have,” said Louie.

Should SAM be successful in forming its own band, benefits will include core funding from Indigenous Services Canada and eligibility for grants other First Nations have access to, including money for coronavirus pandemic measures, says Louie.

The best case scenario would see negotiations taking one to two years, he adds.

“Because we’re not dealing with a lot of people and because the terms and conditions of the new band aren’t that onerous—basically they’re just saying we want a clean break—there’ll just be an issue about the amount of land, the quantity of the property of reserve land that would form under the new band,” said Louie.

The process will only be completed once a vote is held and the majority agrees to the separation terms.

That is not something current Sawridge Chief Roland Twinn anticipates happening, “because you have to give up a part of your reserve.”

“I don’t know what the Indian Act says about (the vote) because there is clearly a difference between membership and affiliation and when it comes to referendums it’s the membership not the affiliation that votes on referendums, as I understand it,” said

Twinn.

Twinn says membership sits at around 45 and “it’s been a couple of years” since a member was accepted.

In information on the five steps of forming a band, as outlined on the ISC website, it is noted “most new bands have come into being from a band division. Some have involved both status and non-status Indians, following the general rule that registered members are the majority.”

Twinn told Windspeaker.com that he was unaware of SAM’s intention to approach ISC to create a new band.

Louie says Twinn has not yet been officially notified.

However, Loyie-Clark says he has been talking “unofficially” about his plan to people living on reserve “because they’re all my cousins.”

Loyie-Clark says he is initiating this action now as a form of reconciliation and “repairing the relationship.” It’s something he would like to see be done “pleasantly.”

“It’s terribly unjust what’s going on...so let’s do this peacefully. Otherwise we’re going to be fighting... At the end we may end up with absolutely nothing and we don’ have a (First Nation) This is supposed to be for the future generations not just us,” said Loyie-Clark.

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