

This is the 1<sup>st</sup> affidavit  
of Joel Starlund in this case  
and was made on March 19, 2024

Court File No.: S236214  
Court Registry: Vancouver

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

1392752 B.C. LTD.

PETITIONER

AND:

SKEENA SAWMILLS LTD.  
SKEENA BIOENERGY LTD and  
ROC HOLDINGS LTD.

RESPONDENTS

**AFFIDAVIT**

*FORM 109 (RULE 22-2(2) AND (7))*

I, Joel Starlund, of Kitwanga, in the Province of British Columbia, MAKE OATH AND SAY  
AS FOLLOWS:

1. I am the executive director of the Gitanyow Hereditary Chiefs, of the Gitanyow Nation, the application respondent herein, and as such I have personal knowledge of the matters and facts herein deposed to save and except where the same are stated to be made upon information and belief and as to the latter I verily believe them to be true.
2. The Simigiyet'm Gitanyow, aka the Gitanyow Hereditary Chiefs, are an innovative, traditional Indigenous government mandated to protect Gitanyow Nation's lands, resources, and laws. The Gitanyow have never ceded or surrendered title to their lands,

rights to their resources, or the power to make decisions within their Lax'yip (Territory). The Gitanyow Hereditary Chiefs' goal is to establish government-to-government agreements that form the foundation of a modern-day treaty through an incremental treaty approach.

3. All capitalized terms herein that are not defined herein have the meaning given to them in the Application Response of the Gitanyow Nation.
4. The Gitanyow is an Indigenous Nation with a Territory located on the Kitwanga River 8km south of Kitwancool Lake, at the confluence of Kitwancool Creek in the mid-Nass River and Kitwanga River watershed in northwestern British Columbia.

Attached to this my affidavit and marked as **Exhibit "A"** is a true copy of a map of Gitanyow Territory

5. The Gitanyow Nation has commenced a claim against the Province of British Columbia for Aboriginal title and Aboriginal rights to an approximate 6, 200 square kilometer area, which area includes the lands and timber subject to the License. The Aboriginal rights and title lawsuit is scheduled for hearing before the Supreme Court of British Columbia commencing in October, 2024.<sup>1</sup>
6. A significant portion of the Nass Timber Supply Area lies within Gitanyow Territory.

Attached to this my affidavit and marked as **Exhibit "B"** is a true copy of a map titled Licence Area Map Non-Replaceable Forest License A96100 Nass Timber Supply Area

7. The Gitanyow estimate that the Gitanyow Territory holds over 70% of the timber harvesting land base in the Nass Timber Supply Area.

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<sup>1</sup> Third Amended Notice of Civil Claim of Malii et al v. Province of British Columbia, filed May 19, 2023

8. Pursuant to the License, the Licensee and its predecessor, have harvested timber almost exclusively on Gitanyow Territory for several reasons including that it is the closest hauling distance to the mill, proximity to the Highway 37 corridor and it provides the best available timber in the Nass and Cranberry timber supply areas.
9. There were some discussions between the Gitanyow and Skeena Sawmills in March 2023 regarding a proposed partnership involving the License. However, these were not advanced negotiations as it was obvious to the Gitanyow that Skeena Sawmills did not want a true partnership with the Gitanyow Nation. These discussions were rejected by the Gitanyow Nation.
10. The Gitanyow held a Teams meeting with the Receiver on December 13, 2023 in which we stated the Gitanyow's position that we assert Aboriginal title to part of the lands that the License encompasses as well as timber in the Territory and that there is an obligation to consult with the Gitanyow.
11. Attached to this my affidavit and marked as **Exhibit "C"** is a true copy of a letter from Joel Starlund to Eamon O'Donoghue dated December 14, 2023.
12. Attached hereto to this my affidavit and marked as **Exhibit "D"** is a true copy of a letter sent January 31, 2024 from Jevan Hanchard to Joel Starlund.
13. Attached hereto to this my affidavit and marked as **Exhibit "E"** is a true copy of a press release issued on December 14, 2023 by the Gitanyow Hereditary Chiefs expressing our position to contest any attempts to transfer the FLA16882 (the "License") to a non-Gitanyow entity.
14. If the Reverse Vesting Order is granted, the Gitanyow Nation will be worse off since it will not be consulted with respect to the disposition of the License and the harvesting of

timber in the Gitanyow unceded traditional territory which will have a significant adverse impact on its constitutional rights, especially in light of the upcoming scheduled trial for Aboriginal title and rights.

**SWORN (OR AFFIRMED) BEFORE**

**ME** at Terrace, British Columbia, on  
March 19, 2024



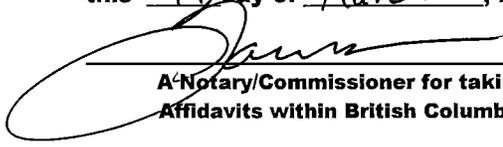
A Notary/Commissioner for taking  
affidavits within British Columbia

**FAUSTA L. MAURO**  
Barrister & Solicitor  
#200 - 4630 Lazelle Ave.  
Terrace, BC V8G 1S6

  
**JOEL STARLUND**

(Print name or affix stamp of  
notary/commissioner)

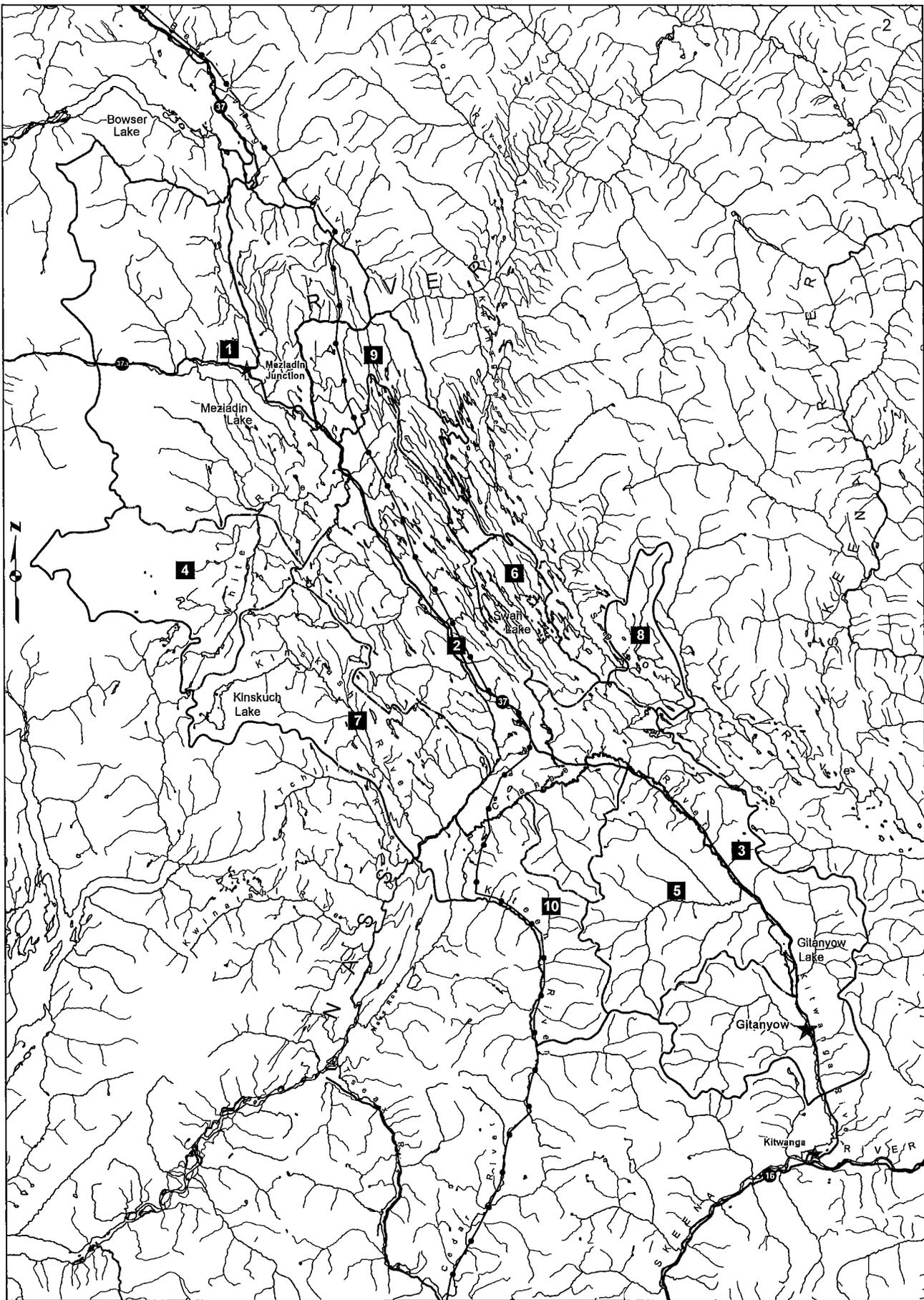
This is Exhibit "A" referred to in the  
affidavit of JOEL STARLAND  
sworn before me at TERRACE, BC.  
this 19<sup>th</sup> day of March, 2024



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**Map Key**

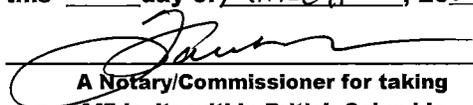
- Highway
- FSR (Forest Service Road)
- Main Logging
- Public Road
- NTL
- Rivers and Lakes
- Major River
- Major Stream
- Stream
- Gitanyow External Boundary
- Gitanyow Internal Boundary



**Legend**

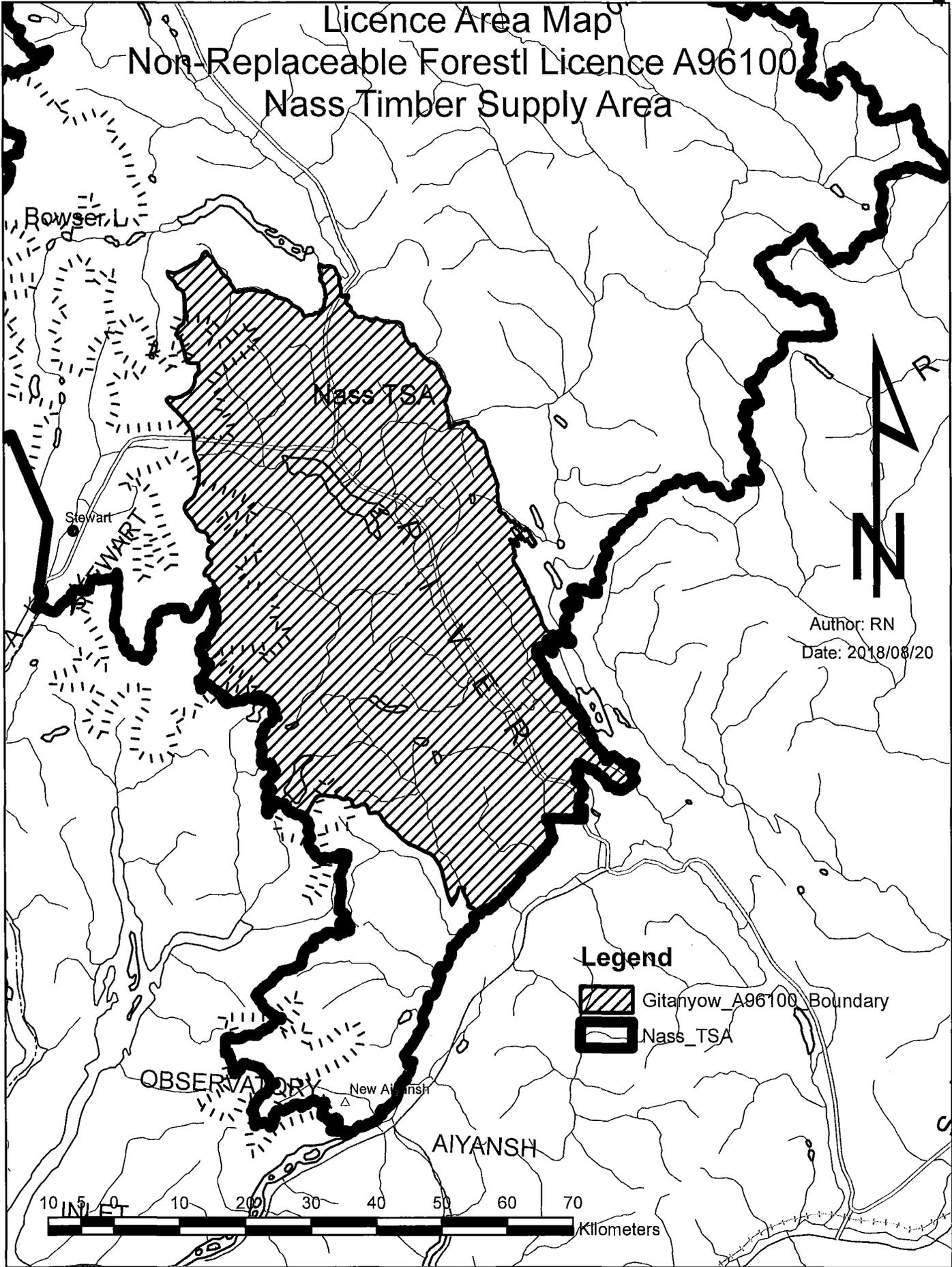
- |                              |                   |
|------------------------------|-------------------|
| □ 1 Wli Litsw                | □ 6 Hallsmsxw     |
| □ 2 Gamlakyetbw              | □ 7 Luux Hon      |
| □ 3 Gwaas Hla'am             | □ 8 Mellil        |
| □ 4 Gwaas Hla'am / Bil Yosxw | □ 9 Aawindesxw    |
| □ 5 Gwinuu                   | □ 10 Watakayetsxw |

This is Exhibit "B" referred to in the  
affidavit of JOEL STARLUND  
sworn before me at TERRACE, B.C.  
this 19<sup>th</sup> day of MARCH, 2024

  
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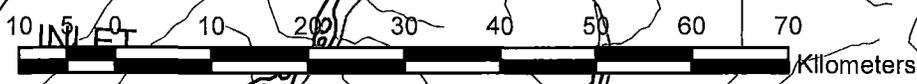
Licence Area Map  
Non-Replaceable Forest Licence A96100  
Nass Timber Supply Area



Author: RN  
Date: 2018/08/20

Legend

-  Gitanyow\_A96100 Boundary
-  Nass\_TSA





**Gitanyow Hereditary Chiefs**  
 P.O. Box 148, Kitwanga B.C. V0J 2A0  
 PHONE: 250-849-5373 FAX: 250-849-5375

Dec 14, 2023

Eamon O'Donoghue  
 Associate Deputy Minister  
 Ministry of Forests  
 British Columbia

This is Exhibit "C" referred to in the  
 affidavit of JOEL STARLUND  
 sworn before me at TERRACE B.C.  
 this 19<sup>th</sup> day of MARCH, 2024

  
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**FAUSTA L. MAURO**  
 Barrister & Solicitor  
 #200 - 4630 Lazelle Ave.  
 Terrace, BC V8G 1S6

**RE: Urgent Notice – Contestation of FLA16882 License Transfer**

Dear Mr. O'Donoghue,

I am writing to formally alert your office and all potential licensees to the unyielding stance of the Gitanyow Hereditary Chiefs (GHC) regarding FLA16882, formerly under the purview of Skeena Sawmills in Terrace, British Columbia.

The GHC are prepared to contest any attempts to transfer FLA16882 to a non-Gitanyow entity. This license, intricately tied to our ancestral lands, poses an obvious and high potential for substantial adverse impacts on Gitanyow's rights.

Our challenge is rooted in our constitutionally protected rights and will involve a comprehensive strategy, including legal action, political advocacy, public outreach, and on-the-ground actions.

Under British Columbia's published policy, prior written approval is not required for a disposition resulting from a change of control or an amalgamation. Notice of the change must be provided in writing to the minister within 30 days after a change of control, and a ministerial review is then conducted.

The Forest Act mandates the Minister to consider the effects of the disposition on the marketing of fiber in British Columbia and the public interest. It is well-established that reconciliation is a fundamental component of the "public interest."

This notice serves as an invitation for direct communication. We stand firm in our resolve and strongly urge potential proponents to reconsider their pursuit of FLA16882 in light of our unwavering commitment to defending Gitanyow's interests.

Thank you for your prompt attention to this matter.

Sincerely,

*Joel Starlund*  
Joel Starlund, Executive Director



January 31, 2024

Reference: 277756

**VIA EMAIL: [joel.starlund@gitanyowchiefs.com](mailto:joel.starlund@gitanyowchiefs.com)**

Joel Starlund, Executive Director  
Gitanyow Hereditary Chiefs  
PO Box 148  
Kitwanga, British Columbia  
V0J 2A0

Dear Joel Starlund:

Thank you for your letter of December 14, 2023, to Associate Deputy Minister Eamon O'Donoghue expressing your concerns and views with regard to the possible disposition of FLA16882 through the Skeena Sawmills (Skeena) et al. receivership Invitation for Offers to Purchase process. I have been asked to respond.

As you know, the current sales process Skeena and its assets are subject to was initiated by one of Skeena's creditors. The process is guided by the law of receivership and the orders of the court; the Province is not involved in the sales process currently being administered by the receiver.

The Ministry did provide high-level process information to the receiver, including the *Forest Act* Disposition of an Agreement Administrative Guide, and asked the receiver to ensure all bidders were aware of the guidance in section 7.2 that encourages proponents seeking a transfer of a forest licence to engage with First Nations as early as possible in the process.

We understand that the deadline for final bids was January 12, 2024, and that an application for the court to approve a sale is expected to proceed in mid-February 2024.

The Minister of Forests' role approving the transfer of an agreement under the *Forest Act* such as FLA16882 would typically start when the application for transfer is received. In the context of a sales process being administered by a receiver, the receiver first seeks court approval of the sale, usually subject to any required statutory approvals. Any resulting application for the transfer of an agreement under the *Forest Act* would occur after the court approval of the overall sales transaction.

This is Exhibit "D" referred to in the affidavit of JOEL STARLUND sworn before me at TERRACE B.C. this 19<sup>th</sup> day of MARCH, 2024

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Barrister & Solicitor  
#200 - 4630 Lazelle Ave.  
Terrace, BC V8G 1S6

Division 2 of Part 4 of the *Forest Act* sets out the conditions for the disposition of a forest tenure agreement, such as a forest licence. All dispositions undergo ministerial review to assess the impact on the public interest, Indigenous communities and the marketing of fibre in B.C. In considering a disposition, the Ministry is obligated to consult with potentially affected First Nations prior to a decision being made.

Please do not hesitate to contact me if you wish to discuss further.

Thank-you,

A handwritten signature in black ink, appearing to read 'Jevan Hanchard', written in a cursive style.

Jevan Hanchard RPF  
Regional Executive Director  
Skeena Region – Ministry of Forests



This is Exhibit "E" referred to in the affidavit of DEL STARLUND sworn before me at TERRACE BC this 19 day of March, 2024

*[Signature]*  
A Notary/Commissioner for taking Affidavits within British Columbia

Release Summary

GITANYOW NATION LAUNCHES DEFENSIVE STANCE AGAINST POTENTIAL TRANSFER OF FORESTRY LICENSE 16882

**FAUSTA L. MAURO**  
Barrister & Solicitor  
#200 - 4630 Lazelle Ave  
Terrace, BC V8G 1S6

# Gitanyow Nation Launches Defensive Stance Against Potential Transfer of Forestry License 16882

December 14, 2023 | Source: [Gitanyow Hereditary](#)

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GITANYOW LAX'YIP, Dec. 14, 2023 (GLOBE NEWSWIRE) -- The Gitanyow Hereditary Chiefs (GHC) stand resolute, ready to contest any attempts to transfer FLA16882 to a non-Gitanyow entity. This forestry license, deeply intertwined with Gitanyow's traditional lands, presents an unmistakable and high potential for substantial adverse impacts on Gitanyow's rights.

FLA16882, formerly held by Skeena Sawmills (SS) in Terrace, British Columbia, is one of three forest licenses. Despite a Cooperative Harvest Agreement previously in place with Gitanyow, SS's recent bankruptcy has put its assets, including FLA16882, in receivership.

Gitanyow's offer to purchase FLA16882, which significantly overlaps Gitanyow Lax'yip (Territory), was initially declined, as SS aims to sell assets as a complete package, including the Terrace Mill and all forest licenses.

"The Chiefs have formally alerted the Receiver overseeing the assets of Skeena Sawmills and the B.C. government of our unyielding stance to defend Gitanyow's constitutionally protected rights," says Simogyet (Hereditary Chief) Malii.

"Our challenge will involve a comprehensive strategy, including legal action, political advocacy, public outreach, and on-the-ground actions."

mandated after providing written notice within 30 days of such a change.

The Forest Act dictates the Minister consider the effects of the disposition on fiber marketing in British Columbia and the public interest. Reconciliation is recognized as a fundamental component of the "public interest."

Joel Starlund, Executive Director of the Gitanyow Hereditary Chiefs' Office, emphasizes, "Gitanyow stands firm in its resolve and strongly urges potential proponents to reconsider their pursuit of FLA16882."

"We appreciate the public's understanding and support as we embark on this critical mission to protect our ancestral lands and uphold our rights."

The SImigiyet'm Gitanyow (Gitanyow Hereditary Chiefs) are an innovative, traditional Indigenous government mandated to protect Gitanyow Nation's lands, resources, and laws. The Gitanyow have never ceded or surrendered title to their lands, rights to their resources, or the power to make decisions within their Lax'yip (Territory). The Gitanyow Hereditary Chiefs' goal is to establish government-to-government agreements that form the foundation of a modern-day treaty through an Incremental treaty approach. In 2012, the Gitanyow Hereditary Chiefs and the province of British Columbia signed the Gitanyow Lax'Yip Land Use Plan to guide all industrial activity. Gitanyow Nation is part of the larger Gitksan Nation, encompassing 6,200 square kilometres in the Nass and Skeena Watersheds (Kitwanga and Kispiox Rivers).

Learn more by visiting [gitanyowchiefs.com](http://gitanyowchiefs.com) and following [@gitanyowchiefs](https://www.instagram.com/gitanyowchiefs) on Instagram.

Contact information:

Chasity Daniels

Communications Coordinator 778-202-9079 (cell)

[ghc.communications2023@gmail.com](mailto:ghc.communications2023@gmail.com)

