



This is the 2nd affidavit of Walker Main in this case and was made on March 25, 2024

NO. S236214
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

1392752 B.C. LTD.

PETITIONER

AND:

SKEENA SAWMILLS LTD.
SKEEN BIOENERGY LTD.
ROC HOLDINGS LTD.

RESPONDENTS

A F F I D A V I T

I, **Walker Main**, with an address for service in this matter care of 300 – 1497 Marine Drive, West Vancouver, British Columbia, AFFIRM THAT:

1. I am the Vice-President of Terrace Timber Ltd. ("**Terrace Timber**"), and as such I have personal knowledge of the matters and facts hereinafter set out, save and except where the same are stated to be based upon information and belief and where so stated I verily believe them to be true.
2. On March 5, 2024, I made an affidavit (the "**First Affidavit**") which was filed in these proceedings. Capitalized terms used herein and not otherwise defined have the same meaning as ascribed to such terms in the First Affidavit.
3. In preparing to make this affidavit, I reviewed, among other documents, the Application Response (the "**Purchasers' Application Response**") of 1392752 B.C. Ltd. (the "**Petitioner**") and Cui Family Holdings Ltd. ("**Cui Holdings**") filed on March 18, 2024, and the Affidavit of Shenwei (Sandra) Wu, made on March 15, 2024 (the "**Wu Affidavit**"). I am authorized by Terrace Timber to swear this affidavit in response to the Purchasers' Application Response and the Wu Affidavit, and in support of Terrace Timber's Application Response and objection to the proposed RVO transaction.

4. The Wu Affidavit refers to the relationship between Terrace Timber and Skeena but leaves out important context. I believe the Wu Affidavit is misleading in many respects.

Rate Arbitration and TTI Report Matters

Background Concerning the Rate Dispute

5. In the First Affidavit, at paragraph 13, I attested to the fact that Terrace Timber has accumulated more than \$200,000 in legal and expert costs preparing for arbitration with Skeena, concerning a rate adjustment dispute, as required under the Bill 13 Contract (the "**Rate Arbitration**") and such dispute, the "**Rate Dispute**").

6. The Rate Dispute has been ongoing for years, and follows previous rate disputes between Skeena and Terrace Timber which date back to 2020. As described in further detail below, the Rate Arbitration was commenced in July 2023, after an attempt to resolve the Rate Dispute through the engagement of Timber Tracks Inc. ("TTI") to provide a binding decision on the applicable rates. These efforts were unsuccessful because Skeena terminated TTI's engagement after the resulting TTI Report (as defined and described below) was provided to the parties, but before the TTI Report was formally finalized to have binding effect.

7. Skeena first initiated a rate dispute in or around May 2020, for five blocks harvested by Terrace Timber under the Bill 13 Contract (the "**2020 Rate Dispute**"). Skeena requested, and Terrace Timber agreed, to delay negotiations for rates on future blocks pending the outcome of the 2020 Rate Dispute (the "**Rate Dispute Pause**").

8. The 2020 Rate Dispute was ultimately resolved by negotiations in November 2022.

9. Prior to the resolution of the 2020 Rate Dispute, Skeena and Terrace Timber failed to agree on rates for eight other blocks which were subsequently harvested under the Bill 13 Contract (the "**Original Disputed Blocks**").

10. With no agreed upon rate for the Original Disputed Blocks, Terrace Timber completed Bill 13 Work on the Original Disputed Blocks, and Skeena paid Terrace Timber for Bill 13 Work on the Original Disputed Blocks at provisional rates, based upon the last agreed rate established in 2017 (the "**Provisional Rates**") pending determination of the applicable rates at the conclusion of the Rate Dispute Pause.

Engagement of TTI

11. Paragraphs 50 through 52 of the Wu Affidavit refer to Skeena and Terrace Timber having engaged TTI, a third-party service provider primarily working for logging contractors, to provide an opinion on the appropriate rates to resolve the Rate Dispute. The Wu Affidavit also states that Skeena terminated the engagement with TTI before TTI issued a final report.

12. The engagement of TTI preceded the commencement of the current Rate Arbitration. The purpose of engaging TTI was, primarily, to mitigate against the costs which would be incurred by the parties if a full arbitration process was pursued with respect to the Rate Dispute. As a result of Skeena's decision to terminate TTI's engagement (as described below), the parties were forced to incur the costs of the Rate Arbitration.

13. Specifically, in July 2022, Terrace Timber and Skeena jointly contracted with TTI, pursuant to a Professional Services Agreement (the "**PSA**"), to have TTI determine logging rates for the Original Disputed Blocks.

14. Terrace Timber continued harvesting operations for Skeena following the execution of the PSA.

15. In November 2022, Skeena and Terrace Timber agreed that three additional blocks, referred to as Block 6-20-5, Block 6-30-3, and Block KIT005 (collectively, the "**Additional Blocks**"), would be added to TTI's analysis concerning the Rate Dispute. Bill 13 Work performed by Terrace Timber on the Additional Blocks was also paid for by Skeena at the Provisional Rates.

16. In November 2022, the founder and president of TTI, Aaron Sinclair, requested various data and cost information, which was tracked in harvesting the Additional Blocks, from Terrace Timber. This information was provided to Mr. Sinclair, by Terrace Timber, between November 2022 and early January 2023

TTI Report

17. A true copy of the Affidavit of Aaron Sinclair, made on September 1, 2023 (the "**Sinclair Affidavit**") in connection with the Rate Arbitration, is attached to my affidavit and marked as Exhibit "A".

18. As described in further detail in the Sinclair Affidavit:
 - (a) TTI was engaged by Skeena and Terrace Timber to come to a final and binding determination of the rates payable to Terrace Timber by Skeena;
 - (b) on December 22, 2022, Mr. Sinclair issued a report in which he provided his determination of the rates for the blocks in dispute (the "**TTI Report**") on behalf of TTI. Copies of the TTI Report are enclosed as Exhibit "F" to the Sinclair Affidavit and Exhibit "N" to the Wu Affidavit;
 - (c) in preparing the TTI Report, TTI undertook various steps to determine the applicable rates, including physical viewings of the applicable cutblocks, and review of payroll data for the limited purpose of comparing Terrace Timber's phase productivity relative to industry standards. As described in further detail in the TTI Report, the methodology to determine the applicable rate included three components: (i) a quantitative analysis using time sheet data from Terrace Timber, with industry-standard charge-out rates applied to determine the costs to log the subject blocks; (ii) a quantitative analysis applying phase productivity rates for the coastal BC region to the amount harvested, to confirm how many hours, under normal working conditions, it would take for the machines used to complete the work; and, (iii) a qualitative analysis with reference to the communication and background information provided by Skeena and Terrace Timber to develop a comprehensive understanding of the working relationship between the two parties;
 - (d) as described in paragraphs 21 and 22 of the Sinclair Affidavit, in the email delivering the TTI Report to Skeena and Terrace Timber, Mr. Sinclair confirmed that the TTI Report was "a preliminary report and we intend to finalize shortly after receiving final details from Terrace Timber on the three final blocks". Similar language was incorporated in the TTI Report; and,
 - (e) following receipt of the TTI Report, Skeena unilaterally terminated TTI's engagement. Skeena stated that it was concerned that the methodology used by the TTI Report was inconsistent with the framework established by the *Timber Harvesting Contract and Subcontract Regulation*, B.C. Reg. 22/96 (the "**Regulations**"). Skeena did not provide any details regarding its objections and did not specify what part or parts of the TTI Report it considered to be inconsistent with the Regulations.

19. Mr. Sinclair subsequently clarified, as described at paragraph 23 of the Sinclair Affidavit, that “the report was only preliminary in so far as I had not yet received the payroll data for the Additional Blocks requested from Terrace Timber in November 2022. My determination of the Rates for the original 8 cutblocks was final and not subject to change ...”.

20. Terrace Timber provided the final components of the information requested by TTI, with respect to the Additional Blocks, on January 3, 2023. Following the provision of that information, Mr. Sinclair confirmed on behalf of TTI that the rates determined for the Additional Blocks, and the weighted average for all 11 cutblocks, would not change as a result of the additional information. This confirmation is repeated in paragraph 24 of the Sinclair Affidavit.

21. Skeena never provided any indication to Terrace Timber or, to the best of my knowledge, to TTI, that it had any concerns, whatsoever, with respect to TTI’s methodology, until after the delivery of the TTI Report. I believe that Skeena terminated TTI’s engagement solely because it was clear from the TTI Report that the Rate Dispute would be resolved in Terrace Timber’s favour.

Rate Arbitration

22. Following the termination of TTI’s engagement, and Justice Chan’s decision in April 2023 that the TTI Report was not final and binding upon the parties (as discussed below), Terrace Timber proceeded with the Rate Arbitration process, as required by the Bill 13 Contract and the Regulations in the event of a rate dispute.

23. The Regulations require that the parties first exchange rate proposals, which would have permitted negotiations to commence prior to a formal Rate Arbitration. Skeena refused to follow this process. Specifically, Terrace Timber made a rate proposal on June 2, 2023 with respect to fourteen (14) blocks, consisting of the Original Disputed Blocks, the Additional Blocks, and three additional blocks (Block KIT009A, Block KIT007C, and Block KIT002, collectively, the “**2023 Blocks**”) harvested by Terrace Timber, under TFL 41 and the Bill 13 Contract, following the termination of TTI’s engagement. Skeena rejected Terrace Timber’s proposals with respect to the 2023 Blocks and provided counterproposals for the 2023 Blocks, but never responded to the proposals with respect to the Original Disputed Blocks or the Additional Blocks.

24. On July 11, 2023, Skeena and Terrace Timber agreed to forego a preliminary mediation and to appoint John Logan, K.C. ("**Mr. Logan**") of Jenkins Marzban Logan LLP as the arbitrator for the Rate Arbitration.

25. The Rate Arbitration concerned the Original Disputed Blocks, the Additional Blocks, and the 2023 Blocks. As a result, there were a total of fourteen (14) blocks subject to the Rate Arbitration; all of which had already been partially or fully harvested by Terrace Timber. There was also a dispute, to be determined within the Rate Arbitration, as to whether the Original Disputed Blocks and the Additional Blocks were formally subject to a "rate dispute" as contemplated by the Regulations. Skeena and Terrace Timber were in agreement that a rate dispute existed concerning the 2023 Blocks.

26. Scheduling discussions between Terrace Timber and Skeena, through their respective counsel, and Mr. Logan, occurred through September 5, 2023. The Rate Arbitration process agreed to by the parties contemplated that Terrace Timber would bring a preliminary application to determine whether Skeena should be deemed to have accepted Terrace Timber's rate proposal on certain cutblocks (the "**Preliminary Application**") or if a rate dispute existed concerning same; specifically, the Original Disputed Blocks and the Additional Blocks.

27. Terrace Timber delivered the Preliminary Application to Skeena and Mr. Logan on September 5, 2023.

28. Following the delivery of the Preliminary Application, further discussions occurred regarding the timing of Skeena's response.

29. On September 20, 2023, the assets of Skeena and two related corporations, ROC Holdings Ltd. and Skeena Bioenergy Ltd. (collectively with Skeena, the "**Skeena Entities**") were placed into receivership.

30. Counsel to Skeena then advised that the Rate Arbitration was subject to the stay of proceedings under the receivership order.

31. I understand, based upon my review of the Wu Affidavit and my discussions with representatives of Timber Baron Ltd. ("**Timber Baron**"), that Timber Baron and Skeena were also proceeding with a similar rate arbitration process, which was scheduled to begin a few days after the date on which the receivership order was made against Skeena in these proceedings,

on the application of the Petitioner. As a result of the receivership of the Skeena Entities, neither arbitration has proceeded.

Rate Dispute Evidence

32. Exhibit "O" to the Wu Affidavit includes two spreadsheets, which Ms. Wu attests were internally prepared by an employee of Skeena and which are stated to compare the rates charged by Timber Baron and Terrace Timber to "the rates charged by non-Bill 13 Contractors on comparable cutbacks". I have reviewed Exhibit "O" to the Wu Affidavit and I believe it is inaccurate in a number of respects, including because it fails to consider the factors set out in the Girvan Report (as defined below).

33. By way of an engagement letter dated June 13, 2023, Terrace Timber's external counsel for the Rate Arbitration, McLean & Armstrong LLP ("**McLean**"), engaged Jim Girvan, MBA RPF, of Industrial Forestry Service Ltd., to prepare an expert report for the purposes of the Rate Arbitration (which was then in the preparatory phase prior to the selection of an arbitrator). A true copy of the engagement letter and expert instructions provided by McLean to Mr. Girvan is attached to this affidavit and marked as **Exhibit "B"**.

34. In July 2023, Mr. Girvan finalized his report (the "**Girvan Report**"). A true copy of the Girvan Report is attached to this affidavit and marked as **Exhibit "C"**.

35. The Girvan Report concluded that the rates charged by Terrace Timber were more expensive than rates charged for other blocks, but that this was largely due to mismanagement by Skeena. Specifically, section 7 of the Girvan Report, titled "Overall Conclusions", states in part:

"It is my opinion that virtually all issues that were identified by Terrace Timber in advance of logging that had the potential to affect productivity and cost that Skeena chose not to consider, or remedy, were confirmed once logging was complete and full view of the harvest block was possible. Many, if not all issues reduced productivity and increased costs. Examples include:

- Roads not complete when the block harvest started.
- Roads in the process of being built when the harvest started.
- Roads and/or landings were not built as shown on the harvest appraisal maps.
- Inadequate deflection and/or lack of tail holds to support grapple yarding.

- Concerns over snow loads on site.
- Concerns about small volumes associated with specific sorts (chip and saw).
- Concerns about scale closures and restrictions on pulp log deliveries.
- Administratively separated blocks with an engineering rationale that did not fully support the split.

The lack of consistent, forward looking logging plans from Skeena prevented Terrace Timber from fully optimizing their equipment and manpower resources in advance. An example included scheduling harvest in a stand with a large piece size (Kitt 007) only to be moved to a block with small piece size (Kit 003) on short notice.

These types of issues reduced productivity and increased costs.

It appears to me that Terrace Timber consistently tried to make recommendations to Skeena on how to improve productivity and reduce costs but received in return little to no acknowledgement or support from Skeena. [...]

My opinion is that certain circumstances seen over the course of my review would seem to indicate that Skeena was actively trying to prevent Terrace Timber from working in an efficient and cost-effective manner, given the circumstances, and to create situations where Terrace Timber was at risk of material default on their logging contract.

[...] My opinion is that Terrace Timber operated in a manner that was reasonably efficient in terms of cost and productivity given the circumstances reviewed on a block-by-block basis.

I am aware of my duty to assist the Arbitrator, remain impartial and unbiased and not be an advocate for any party. I have prepared my report in conformity with this duty. If I am called on to give oral or written testimony, I will give that testimony in conformity with this duty."

36. Paragraph 64 of the Wu Affidavit refers to Skeena's rate disputes with Timber Baron and Terrace Timber and states that "... In addressing these disputes, Sawmills [Skeena] incurred in excess of \$380,000 in legal fees over a three year period without achieving any meaningful progress in resolving them." That may be true but it is the result of Skeena's own actions, including terminating the TTI engagement (which was specifically intended to mitigate against such costs) when it became apparent that TTI's conclusions were favourable to Terrace Timber's position.

37. The Rate Arbitration is contemplated by the Bill 13 Contract and, as described in the First Affidavit, any corresponding costs are inherent to TFL 41 under the Regulations and the

Forest Act. Terrace Timber has made significant efforts to resolve the Rate Dispute but the Skeena Entities have consistently refused to engage with Terrace Timber to find a reasonable and cost-effective solution.

Lien Action

38. The Wu Affidavit refers to litigation between Skeena and Terrace Timber concerning the validity of a contractor lien and charge registered by Terrace Timber in the British Columbia Personal Property Registry (referred to in the Wu Affidavit as the "**Terrace Timber Charges**"). Paragraph 58 of the Wu Affidavit states that "...Justice Chan held, among other things, that the Terrace Timber Charges were invalid and ordered that they be discharged."

39. That statement is correct but, for clarity, the Terrace Timber Charges were discharged on the basis that the TTI Report was a preliminary report and not binding upon Skeena due to Skeena's termination of TTI's engagement before the finalization of the report. Justice Chan did not make any determination as to whether the rates were reasonable, the methodology used in the TTI Report was correct, or any similar issues. A true copy of Justice Chan's decision is attached to this affidavit and marked as **Exhibit "D"**.

40. As a result, the Rate Dispute continued following Justice Chan's decision.

Economic Circumstances

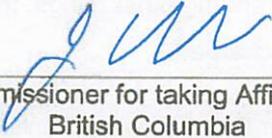
41. The Wu Affidavit states in paragraph 65 that "...it is my considered view and business judgment that retaining the Bill 13 Contracts will be materially detrimental to Cui Holdings' ability to restart the Business in an economically-viable manner." It appears to be Ms. Wu's view that, without the Bill 13 Contracts, Cui Holdings will be able to ensure that Skeena is economically viable. However, even when lumber and cedar log prices were at historic highs and the economic conditions were most conducive to success, the Cui family's mismanagement of the Skeena Entities resulted in Skeena failing.

42. Specifically, lumber prices were at record highs from August 2020 – July 2022, peaking at \$1600 USD per board foot; lumber prices were also at very high averages prior to and following that period, compared with other years. Cedar log prices started to rise in 2016 and have continued to remain strong since. Despite this, the Skeena Entities, under the control of the Cui family, consistently failed to make a profit. Based upon my experience and knowledge of

the British Columbia forestry industry, I am aware that many other forestry operations involving Bill 13 Contracts were able to turn a profit during this period.

43. I make this affidavit in support of Terrace's Application Response and objection to the RVO transaction, and further, to supplement the First Affidavit.

AFFIRMED BEFORE ME at the City of Terrace, in the Province of British Columbia, this 25th day of March, 2024.


A Commissioner for taking Affidavits for
British Columbia

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


WALKER MAIN

This is **Exhibit "A"** referred to in **Affidavit #2** of **Walker Main**, affirmed before me at the City of Terrace, in the Province of British Columbia, this 25th day of March, 2024.



A Commissioner for taking Affidavits for
British Columbia

This is the 1st Affidavit of
Aaron Sinclair made August 1, 2023

SEPTEMBER *AS*

**IN THE MATTER OF THE FOREST ACT, RSBC 1996, c. 157 as amended,
THE TIMBER HARVESTING CONTRACT AND SUBCONTRACT REGULATION, BC
Reg. No. 22/96, as amended
AND THE ARBITRATION ACT, S.B.C. 2020, c.2**

Between:

SKEENA SAWMILLS LTD.

LICENSEE

and:

TERRACE TIMBER LTD.

CONTRACTOR

AFFIDAVIT

I, Aaron Sinclair, with a business address of 310 Vancouver Street, Prince George, British Columbia,
AFFIRM THAT:

1. I am the founder and president of Timber Tracks Inc., and as such I have personal knowledge of the matters and facts hereinafter deposed to, save and except where the same are stated to be based upon information and belief and where so stated I verily believe them to be true.
2. Timber Tracks Inc. is a software company offering a suite of products for logging contractors and tenure holders to help organize themselves and their operations in order to achieve increases in productivity and savings in cost.
3. On March 31, 2022, I received a call from Roger Keery, then president of Skeena Sawmills Ltd. ("Skeena"). Mr. Keery asked if I would be interested in acting as an unbiased and impartial arbiter of logging rates ("Rates") payable on cutblocks harvested by Terrace Timber Ltd. ("Terrace Timber") for Skeena under Tree Farm License 41 – an area-based tenure located south of Terrace, British Columbia near Kitimat – pursuant to a replaceable stump to dump timber harvesting contract between the parties (the "Contract").

4. Subsequent to Mr. Keery's call, I spoke with Greg Main, president of Terrace Timber, about my potential involvement. Mr. Main expressed to me that the parties had not been able to resolve their differences of opinion on Rates and were looking for an alternative to Arbitration due to the expense.

5. On June 15 and 16, 2022, I corresponded with Greg DeMille, General Manager of Skeena, about my potential involvement and determination of Rates. A true copy of my email communication with Mr. DeMille is attached as **Exhibit "A"**.

6. In further discussions with Mr. DeMille, he explained to me that if I was willing to act, Skeena and Terrace Timber had collectively agreed to appoint me to determine the Rates payable to Terrace Timber by Skeena and that they both agreed that my determination of those rates would be final and binding on the parties.

7. I verbally advised Mr. DeMille that I was interested in the engagement and that I would provide a proposal to the parties.

8. On June 23, 2022, I provided to Mr. DeMille a proposal for the provision of professional services under which I would determine Rates payable by Skeena to Terrace Timber. The proposal was dated April 21, 2022. A true copy of the initial proposal is attached as **Exhibit "B"**.

9. In late June 2022, I discussed with Mr. Main certain modifications to my initial form of proposal including incorporating terms of reference and restriction of my evaluation to what I had termed 'Phase 1'. I made these modifications as requested.

10. On July 15, 2022, I provided to Mr. Main and Mr. DeMille a revised proposal for the provision of professional services under which I would determine Rates payable by Skeena to Terrace Timber. A true copy of my proposal is attached as **Exhibit "C"**.

11. By the end of July 2022, I had received a signed copy of my proposal from both Terrace Timber and Skeena. I also requested and received a retainer of \$60,000 plus GST – half of which was paid for by each party.

12. Once the proposal was signed by both parties and the retainer requested was received, I began my review to determine payable Rates under the Contract for the following cutblocks:

CP 10H	Block 21-100-6;
CP 9A	Block 30-1000-14;
CP 8A	Block 30-2000-6;

CP 8A	Block 30-2000-8;
CP 10H	Block 5-5-16;
CP 1N	Block 6-0-2;
CP 4JL	Block KIT003, Unit A; and
CP 4JP	Block KIT007, Units A and B;

13. From time to time, I requested and received information from each of Skeena and Terrace Timber necessary to make my determination of payable Rates for the above cutblocks. During the course of my work, I remained cognizant of the terms of my proposal and the provisions of the *Timber Harvesting Contract and Subcontract Regulation* (B.C. Reg. 22/96) (the "Regulation").

14. In late September I drove to Terrace to see the cutblocks. I travelled to each of the subject cutblocks with Walker Main and Greg Main to ensure my determination of Rates was accurate.

15. On September 22, 2022 I invited Skeena to participate in viewing of the subject cutblocks with Terrace Timber or to organize an independent viewing of the cutblocks with me. Skeena declined while expressing confidence in my professional judgement.

16. On November 4, 2022, I was contacted by Tim Moser, Operations Superintendent for Skeena, Mr. Moser asked if I would add to the cutblocks I was tasked with determining Rates for 3 more cutblocks being harvested by Terrace Timber for Skeena under the Contract:

Block 6-20-5

Block Kit005

Block 6-30-3

(the "Additional Blocks")

A true copy of Mr. Moser's November 4 email is attached as **Exhibit "D"**.

17. On November 1, 2022, Mr. Moser also clarified that Skeena did not want the hauling phase of the logging to be included in my rate determination.

18. On November 7, 2022, Walker Main of Terrace Timber followed up with me via email expressing his agreement that I also review the additional cutblocks but only if such review would not further delay my determination of applicable Rates. Mr. Main expressed his concern over delay given the harvesting of

the Additional Blocks had not yet been completed. A true copy of Mr. Main's November 7 email is attached as **Exhibit "E"**.

19. In mid-November 2022, I requested from Terrace Timber payroll data relating to the labour hours expended in performing the logging in the Additional Blocks. As with the original 8 cutblocks I reviewed, this information was needed to compare Terrace Timber's phase productivity relative to industry standards but was otherwise not utilized in my determination of the Rates.

20. On December 22, 2022, I issued to the parties my report in which I provided my determination of Rates for those blocks in dispute. A true copy of my report is attached as **Exhibit "F"**.

21. In my email to Terrace Timber and Skeena to which I attached my report, I explained that the report was 'preliminary':

*"Please see attached preliminary report for the rate determination of blocks in dispute.
The cover letter indicates that this is a preliminary report and we intend to finalize shortly after receiving final details from Terrace Timber on the three final blocks.
As previously communicated, we have not assessed the trucking rate but have provided an updated hourly rate from our original model back in 2016.
We would be pleased to conduct individual or joint review session(s) in the new year to discuss our conclusions."*

22. My report also included the following statement:

"This determination is preliminary as we are still waiting for some information from Terrace on three of the blocks just completed. Both Skeena and Terrace have requested that we do not delay production of the report and therefore our rate is preliminary until that information is received."

23. As set out in my email, the report was only preliminary in so far as I had not yet received the payroll data for the Additional Blocks requested from Terrace Timber in November 2022. My determination of the Rates for the original 8 cutblocks was final and not subject to change – it was only the 3 Additional Cutblocks which could change, although any small changes in the Rates I determined for the 3 Additional Blocks would not change the weighted average of \$49.29 per cubic meter which I had determined to be payable.

24. On January 3, 2023, I received the payroll information from Terrace Timber I had requested. The information did not change my determination of the Rates for the Additional Blocks or the weighted average for all 11 cutblocks of \$49.29 per cubic meter.

25. On January 3, 2023, I received an email from Mr. DeMille questioning the methodology employed in my report. A true copy of Mr. DeMille’s January 3 email is attached as **Exhibit “G”**.

26. I responded to Mr. DeMille’s email the same day. I also provided a copy of the invoice for services rendered to date, noting that Skeena had not yet paid previous amounts due. A true copy of my email response to Mr. DeMille’s January 3 email is attached as **Exhibit “H”**.

27. Mr. DeMille and I sent follow up emails through January 6, 2023 including a note I received from Mr. DeMille on January 4 that my engagement had been “terminated”. That included my email of January 5, 2023, in which I stated, as follows:

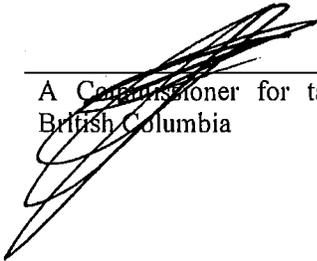
“As per the terms of the engagement, our December 21, 2022 report final rate determination for the stump-to-truck logging services for 144,604 cubic metres is \$49.29 per cubic metre for a total of \$7,127,531. Furthermore, our final determination for snow clearing is that it should be paid on an hourly basis and not on a per cubic metre basis.”

A true copy of the email string between myself and Mr. DeMille is attached as **Exhibit “I”**.

28. During the course of my work, I issued 5 invoices to the parties up to and including that issued January 5, 2023. In total, my records indicate that each party owes (or has paid) a total of \$43,300.67 inclusive of GST for my services.

AFFIRMED BEFORE ME at the City of)
Prince George in the Province of British)
Columbia, this 1 day of ~~August~~, 2023)

SEPTEMBER 2023



A Commissioner for taking Affidavits in)
British Columbia)



Aaron Sinclair

Aaron Sinclair (TimberTracks)

Wednesday, February 1, 2023 at 10:54:53 Pacific Standard Time

Subject: RE: EXT - Rate Resolution
Date: Thursday, June 16, 2022 at 5:39:44 AM Pacific Daylight Saving Time
From: Greg Demille <Greg.Demille@skeenasawmills.com>
To: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>, Roger Keery <Roger.Keery@skeenasawmills.com>
Attachments: image001.png

Hi Aaron,

I understand that you and Roger had a chat. Let me know what your availability looks like as I think you and I can discuss more of the details as to what this might look like and then decide a go forward plan. As you certainly highlighted with Roger, and I agree, we need to make sure that the process is clear and binding on all parties. I am certainly not willing to move forward unless it is.

Regards,

Greg

From: Greg Demille <Greg.Demille@skeenasawmills.com>
Sent: Wednesday, June 15, 2022 4:54 PM
To: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>; Roger Keery <Roger.Keery@skeenasawmills.com>
Subject: Re: EXT - Rate Resolution

Hi Aaron,

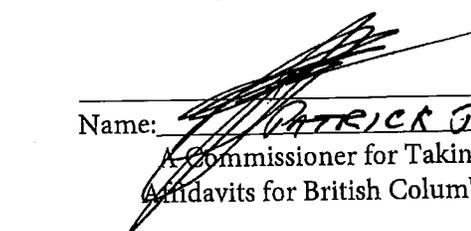
We do wish to engage your services to help resolve the rate issues. Why don't we have a chat in the next day or two and review. Let me know what your availability looks like, and we can have a quick discussion about what the process might look like.

Regards,

Greg

From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>
Sent: Wednesday, June 15, 2022 3:09:44 PM
To: Roger Keery <Roger.Keery@skeenasawmills.com>; Greg Demille <Greg.Demille@skeenasawmills.com>
Subject: EXT - Rate Resolution

This is Exhibit "A" referred to in the
 affidavit of Aaron Sinclair affirmed before
 me on August ^{September} 1, 2023 at the city of
 Prince George, British Columbia.

Name: 
 A Commissioner for Taking
 Affidavits for British Columbia

Hi Roger and Greg,

I am just following up from my conversation with Roger from March 31st when we discussed the idea of me assisting in resolving a rate between Skeena and Main.

Greg Main called me this afternoon asking again if I was interested in assisting to resolve rates for approximately 120,000m³. I confirmed my earlier commentary to both of you that I was willing to work with your two companies to resolve rates. I outlined to him that if you wanted to use us, it would not be our software solution. It would be a joint professional services engagement using our expertise to resolve rates as an alternative to arbitration.

I left it with Greg Main to discuss with Skeena but I wanted to close the loop directly and let you know we are willing to assist. I will leave it to you collectively (including Greg Main) to let us know if you wish to engage our services.

Thanks,
Aaron

AARON SINCLAIR
Founder

250.961.3114 www.timbertracks.ca

**TIMBER
TRACKS**

*Know more.
Achieve more.*

This message came from a domain other than skeenasawmills.com. If the sender of the email is unknown to you please be aware that the email could be a phishing email and might contain content that could be harmful to your computer and the computer network. Please report an suspicious email to your local IT technician.

April 21, 2022

Skeena Sawmills Ltd.
Suite 1500 – 701 West Georgia Street
Vancouver, BC V7Y 1C6

Main Logging Ltd.
3103 Hampton Street
Terrace, BC V8G 1N9

Re: Log Rate Resolution and Long-Term Log Rate Model

Dear Greg DeMille and Greg Main,

Re: Professional Services Proposal for Log Rates

TimberTracks Inc. is pleased to provide Skeena Sawmills Ltd. and Main Logging Ltd. with this professional services proposal. We are proud of the opportunity to serve you and appreciate your confidence in our work.

The attached professional services agreement outline our proposal. We would be pleased to schedule a meeting or call with you to answer any questions you may have.

If the proposal and the terms are acceptable, please sign and return this letter where indicated below.

Sincerely,



Aaron Sinclair
Founder

The professional services proposal, the standard terms and conditions in the appendix, and this letter shall together form a Professional Services Agreement which is agreed to on the ____ day of _____, 2022 by:

The parties have chosen either the fixed unit price fee structure _____ (please initial) or time and expenses fee structure _____ (please initial) for the engagement.

Skeena Sawmills Ltd.

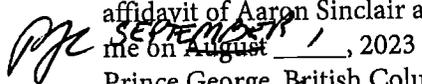
Main Logging Ltd.

Per:
Title:

Per:
Title:

TTI PSA (Skeena & Main) - 2022-06-20.docx

This is Exhibit "B" referred to in the affidavit of Aaron Sinclair affirmed before me on August 1, 2023 at the city of Prince George, British Columbia.



Name: PATRICIA J. COTTER
A Commissioner for Taking **3**
Affidavits for British Columbia

Project Definition

Skeena Sawmills Ltd. ("Skeena") and Main Logging Ltd. ("Main") are seeking an alternative to arbitration to resolve log rates for approximately 120,000m³ of already logged timber performed by Main for Skeena. Further, the parties are seeking a long-term solution to establish logging rates that reflect what it would cost a contractor operating in a manner that is reasonably efficient in the circumstances. The project has been split into two phases to address the historical rates and development of a future logging model. Phase 1 and 2 are expected to occur concurrently.

TTI will use methods, as solely determined by TTI, to establish logging rates for work performed by Main for Skeena. TTI will engage with both Main and Skeena and solicit feedback on model development, data sources, and validation of model outputs.

Confidentiality of information shall be a prime condition of this Agreement. It is expected that both Skeena and Main will be required to disclose confidential information to TTI that, if disclosed to the other party, could result in financial and reputational harm to their businesses. Any confidential information disclosed by either party to TTI will be kept in strictest confidence by TTI and shall not be shared with the other party.

Skeena and Main are joint and several parties to this agreement with Timber Tracks Inc. ("TTI") with the understanding that each party will pay half of the cost. Neither party is permitted to use TTI's work for any purposes except for the determination of logging rates between Main and Skeena. Without TTI's prior written consent, which can be arbitrarily withheld at TTI's sole discretion, neither party shall disclose the rates to any third-party to this Agreement.

PHASE 1 – HISTORICAL RATES

It is understood by TTI that Main has logged approximately 120,000m³ of timber wherein a final rate has not been determined. This is in addition to other volume that the parties are currently in arbitration to resolve. It is understood that some or all of this volume is from one or more replaceable contracts under the Timber Harvesting Contract and Subcontract Regulation of the *Forest Act* (the "Regulation").

TTI shall collect information from the parties that is expected to include, but not be limited to, confirmation of volume of work completed, operating circumstances including where and when work was performed, timber cruises for work completed, any provisional rates agreed to between the parties for the work, pro formas developed by either party for the work, history of correspondence between the parties related to rates for the work, concerns regarding conditions, and any other matters that could affect the operating circumstances. At TTI's sole discretion, TTI may request one or both parties tour TTI's representatives of the work site(s) to validate operating circumstances and issues that may be raised by one or the other.

TTI shall consider, but not be required to use, the considerations outlined in s.26.01 and s.26.02 of the Regulation when determining the final rates. The final determination of rates will be presented in a format decided by TTI and may be on a per cubic metre, as a final value, on a per block, or on the entire package of work basis.

It is understood by TTI that this engagement would be an alternative to arbitration and that Skeena and Main, by way of an agreement between them, have agreed that TTI's determination of rates for the historical work is final and binding without recourse. Furthermore, the parties agree to fully indemnify and hold harmless TTI for any claims either party may have against TTI in relation to the final determination of rates.

PHASE 2 – RATE MODEL

It is understood that Skeena and Main would like an independently developed and maintained log rate model that would provide for industry competitive logging rates that a contractor operating in a manner that is reasonably efficient in the circumstances, in terms of costs and productivity, is able earn a reasonable profit.

An industry best practice log rate model has three main components – equipment costs, productivity, and business overhead. Equipment rates reflect the all-found hourly cost of operating equipment in a production environment. Productivity is best calculated on a phase basis. Together the hourly equipment cost divided by the average hourly production provides phase cost per cubic metre. Business overhead, which is not directly attributed to production, is then added on the basis of the expected annual work plan.

TTI has developed hourly equipment rates that have been used by the industry for over five years. The hourly rates are refreshed annually based on changes in equipment purchase costs, resale values, interest rates, fuel consumption, repairs and maintenance, wages, wage burden, and other factors. They are refreshed monthly for changes in fuel prices.

Calculations of productivity are entirely dependent upon the operating circumstances. There are a substantial number of data points that could be collected to correlate productivity, however any data points used must be collected and recorded in an efficient and realistic manner. TTI shall work with the parties to establish the essential data points that need to be collected, manner of collection, and a weighting of each data point in determining productivity. TTI shall be the final decision maker on each data point and its relative weighting in determining hourly phase productivity.

The calculation of the logging rate will be determined based on the division of phase hourly equipment rates by phase productivity and then each phase added together for the final rate. The final rate shall include appropriate business overhead and appropriate return, or profit, for the circumstances considering the capital investment requirements, working capital requirements, and associated risk that a contractor operating in a manner that is reasonably efficient would earn. For clarity purposes, the model does not guarantee that Main will generate a profit. The model will ensure that a reasonably efficient contractor, in terms of costs and productivity, will earn a reasonable industry competitive profit.

Fees

The fee for the engagement will be at the option of Main and Skeena as either as a fixed price on a unit cost basis of \$1.00 per cubic metre or on a time and expenses basis.

If the fixed unit price option is chosen, for **Phase 1**, the parties will each pay an upfront fee of \$0.25 per cubic metre (total \$0.50 per cubic metre) based on estimated volume and the final payment based on reconciled volumes. For **Phase 2**, the parties will each make quarterly payments of \$0.125 per cubic metre (total \$0.25 per cubic metre) based on estimated volume with the final quarterly payment based on final delivered volumes. TTI has made a best effort to link the cost of the rate resolution and model development to the parties business flow to provide surety of cost. In the alternative, if the parties would prefer a time and expenses (hourly) engagement, TTI's Rate Schedule is outlined below.

The fee is exclusive of taxes and reimbursable expenses approved by the client. The fees for Phase 1 and Phase 2 do not include any travel costs required. The estimated payment schedule for the fee shall be in accordance with the milestones set out below.

TIME AND EXPENSES

Time and expenses shall be billed according to the rate schedule on an arrears basis. While the budget has been estimated based on prior experience, actual cost may be higher or lower. If the parties select time and expenses basis, a retainer of \$60,000, paid \$30,000 each, will be required prior to commencement of work by TTI.

FIXED PRICE

Fixed price will not be adjusted up or down unless agreed to by both parties in writing. The rate schedule applies for all out-of-scope or additional work unless otherwise agreed by both parties in writing.

MILESTONES

#	MILESTONE	DATE	FEE PERCENT	PAYMENT AMOUNT
1.1	Phase 1 Commencement	2022-07-11	50%	\$60,000 + GST
1.2	Final Rate Resolution	2022-11-01	50%	Est. \$60,000 + GST
2.1	Phase 2 Commencement	2022-08-02	25%	\$0.25 / m ³ + GST
2.2	Second Payment	2022-11-01	25%	\$0.25 / m ³ + GST
2.3	Third Payment	2023-02-01	25%	\$0.25 / m ³ + GST
2.4	Fourth Payment	2023-05-01	25%	\$0.25 / m ³ (volume reconciled) + GST

RATE SCHEDULE

ITEM	DETAIL	UNIT	RATE
Advisor Rates	Project Manager	hour	\$350.00
	Senior Advisor	hour	\$300.00
	Advisor	hour	\$250.00
	Associate	hour	\$150.00
Expenses	Vehicle	kilometre	\$1.00
	Other Expenses	actual cost	+ 20%

BILLINGS

Invoices will be issued monthly based on hours worked or according to the milestone schedule. Invoice will include all fees and expenses incurred during the billing period. Payment is to be made within 20 days. Late payments will incur a late payment penalty of 2% per month (26.82% per annum) from date of invoice. Payments can be made by cheque or electronic funds transfers.

Retainer payments must be made at signing of the Professional Services Agreement and prior to commencement of work by TTI. The retainer payments shall be applied against future billings on a proportionate pro rata basis through the term of the engagement. TTI is deemed to have earned all retainer payments in full.

Standard Terms and Conditions

The Professional Services Agreement and exhibits, and any amendments thereto together with these Standard Terms and Conditions (collectively, the "Agreement" or the "Contract") shall, once the Agreement is executed by the parties, constitute the entire agreement between the Client to which such Agreement is addressed (the "Client" or "you") and Timber Tracks Inc. ("TTI", "we" or "us"), regarding the services described in the Agreement (the "Services") with respect to the Client (as defined in the Agreement). It replaces and supersedes any previous proposals, correspondence, understandings or other communications, whether written or oral, regarding the Services.

THE SERVICES

Reliance on drafts – during the engagement we may provide oral comments, or written reports, letters, schedules or hard or soft copies of electronic work products in draft form. As these represent work in progress and not our final report, we do not assume any responsibility in respect of them. The final results of our work will be contained in our final written report. If oral advice is being provided in lieu of written reports, TTI cannot be held responsible for such advice unless we confirm such advice in writing.

Use and purpose of advice and reports – any advice given or report issued by us is provided solely for your use and benefit and only in conjunction with the purpose in respect of which the Services are provided. Unless required by law, you shall not provide such report to any third party or refer to us or the Services without our prior written consent, which we may at our discretion grant, withhold or grant subject to conditions. In no event, regardless of whether consent has been provided, shall we assume any responsibility whatsoever to any third party to which any advice or report is disclosed or otherwise made available. You acknowledge that TTI's advice is based on experience and that TTI does not provide professional advice regarding taxation, legal, or other statutory matters. You should seek professional advice prior to acting on any advice from TTI on these matters.

INFORMATION AND ASSISTANCE

Provision of information and assistance – our performance of the Services is dependent upon the Client providing us with such information, facilities and assistance as we may reasonably require from time to time, and otherwise performing its obligations hereunder.

Punctual and accurate information – the Client shall use reasonable skill, care and attention to ensure that all information we may reasonably require is provided on a timely basis and is accurate and complete and you acknowledge that we will be relying on the information that you provide to us. The Client shall also notify us if it subsequently learns that the information provided is inaccurate or incomplete or otherwise should not be relied upon. Furthermore, if during the engagement new information arises that is reasonably relevant to the Services, the Client will promptly notify us and provide us with all such information.

Responsibility for information provided – any reports issued or advice provided by us may be based on information provided by the Client and on the Client's behalf. Where the Services include consideration of future-orientated financial information, our work will not constitute an examination, compilation or specified procedures in accordance with standards established by the Canadian Institute of Chartered Accountants. Accordingly, we assume no responsibility and make no representations with respect to a) the accuracy or completeness of any information provided by the Client and on the Client's behalf, or b) any reports issued or advice provided by us to the extent based on inaccurate or incomplete information provided by the Client or on the Client's behalf.

PERSONAL INFORMATION PROTECTION

The Client hereby acknowledges and agrees that i) in the course of providing the Services, TTI may be granted access to Personal Information (as defined in applicable law) about the Client and/or individuals in respect to whom the Client collects, uses, holds or encloses Personal Information, and ii) the Services are being provided on the basis that the Client represents and warrants that the Client will disclose, transfer or grant access to such Personal Information only in accordance with applicable legislation in respect of the protection of Personal Information, including but not limited to obtaining any required consents for collection, use and disclosure to us. In addition to any other liability for breach of these Standard Terms and Conditions, the Client shall upon demand, indemnify TTI, and the TTI Personnel, for any claim, demand, debt, action or liability to any third party, including legal costs and disbursements, arising out of or in respect of any breach of the Client's obligations under this paragraph.

We agree that we will receive, collect, use, hold and disclose such Personal Information in compliance with all laws applicable to such Personal Information.

FEEES AND ADDITIONAL SERVICES

Fee basis – our fees and expenses will be charged on the basis set out in the Agreement.

Changes to Services – either party may request changes to the Services. We shall work with you to consider and, if appropriate, to vary any aspect of the engagement, subject to payment of reasonable additional fees and a reasonable additional period to provide any



additional Services. Any variation to the Contract shall be set forth in a written addendum which upon execution by the parties shall form part of the Contract and to which these Standard Terms and Conditions shall apply.

Payment of fees – time for payment of fees and expenses shall be of the essence. If we do not receive payment of any invoice within the time stated in the Agreement we shall be entitled, without prejudice to any other rights that we may have in law or equity, to charge you interest accruing on the date of the invoice at the annual rate of 26.86%, to suspend immediately provision of the Services until all sums due are paid in full, and at our cost register a secured interest in all your present and future acquired assets. Further, if you disagree with or question any amount due under an invoice submitted to us, you shall communicate such disagreement to us, in writing, within 10 days of the invoice date. Any claim not made with that period shall be deemed to be waived.

LIABILITY LIMITATION

Limitation of our liability – in no event shall TTI be liable to Client or any third party for any claim, liability, loss, damage, cost or expense attributable to any act, omission or misrepresentation by Client, its affiliates or their respective personnel.

We will accept liability without limit for (i) death or personal injury caused by our negligence or the negligence of our employees acting in the course of their employment; (ii) any fraudulent pre-contractual misrepresentations made by us on which you can be shown to have relied; and (iii) any other liability which by law we cannot exclude. This does not in any way confer greater rights that you would otherwise have at law or in equity.

In no event shall TTI be liable to Client or any third party for any indirect, special, consequential, punitive, exemplary, incidental or similar damages including, but not limited to, lost profits, lost revenues, failure to realize expected savings, loss of data, loss of business or goodwill, cost of capital or third party claims, whether such liability is based on breach of contract, negligence or any other tort or otherwise, in connection with or arising out of the Agreement.

Our liability to pay damages for all claims and losses incurred by you as a direct result of breach of contract, negligence or any other tort or otherwise by us in connection with or arising out of the Agreement shall be limited to direct damages and to that proportion only of your actual loss which was directly and solely caused by us, and in no event shall our aggregate liability exceed the total amount of fees paid by you to TTI under this agreement.

Where there is more than one addressee to the Agreement, the limit of the liability specified in the immediately preceding paragraph will have to be allocated among such addressees. It is agreed that such allocation will be entirely a matter for the addressees, who will be under no obligation to inform us of or if (for whatever reason) no such allocation is agreed, no addressee will dispute the validity, enforceability or operation of the limit of liability on the grounds that no such allocation was agreed.

INDEMNITY AGAINST THIRD PARTY LIABILITY

You agree to indemnify and hold harmless TTI and our respective Personnel from any and all third party claims, liabilities, losses, damages, costs and expenses relating to the Services, except to the extent finally determined to have resulted from our wilful misconduct or fraudulent behaviour.

TERMINATION

Right to terminate Agreement – either party may terminate this Agreement by giving written notice which will have immediate effect. Client will be responsible for reasonable fees and expenses incurred to the effective date of termination, taking into account the circumstances of termination, and including the fees and expenses of any agent or subcontractor hired by us. Where Client terminates the contract for convenience, Client will pay TTI for all reasonable costs necessarily incurred as a result of early termination of the Services. TTI may also resign from performing all or any portion of the Services and terminate this Agreement immediately upon written notice in the event that circumstances arise that would make continuation of all or any portion of the Services by TTI in conflict with any independence or other professional regulations, standards or guidelines to which TTI conforms.

Continuation of terms – this Agreement will continue until the Services have been provided unless it is terminated earlier in accordance with the terms set out elsewhere herein. The following sections of this Agreement will survive completion of the Services or its earlier termination: Personal Information Protection, Liability Limitation and Indemnity against Third Party Liability, and such other provisions of this Agreement which by their nature are intended to survive.

ELECTRONIC MAIL (“E-MAIL”) COMMUNICATIONS

During the engagement, we may from time to time communicate electronically with each other. However, as you are aware, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. The parties shall not have any liability to each other arising from or in connection with the electronic communication of information to or from the Client during or as a result of its

electronic transmission outside of our electronic environments. If the communication relates to a matter of significance and there are concerns about possible effects of electronic transmission, you agree to request such information in hard copy transmission only.

WORKING FOR OTHER CLIENTS

TTI may be asked to provide services to other clients that may be in competition with you or whose interest may conflict with your own. We will not be prevented or restricted by virtue of our relationship with you under this Agreement from providing services to other clients. Except as required by law or professional regulations, we will maintain the information obtained during the course of this engagement confidentially and will not communicate such information to any other TTI Personnel who are providing services to such other clients.

LEGAL PROCEEDINGS

In the event we are requested or authorized by you or required by government regulation, subpoena or other legal process to produce our working papers or our Personnel as witnesses with respect to our engagement with you, you will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our reasonably expended professional time and expenses, as well as reasonable fees and expenses for our counsel incurred in responding to such a request.

SEVERABILITY

If any of the provisions of this Agreement are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and be binding on the parties to the fullest extent permitted by law.

FORCE MAJEURE

Neither party shall be liable to the other (except payment obligations) for any delay or failure to perform any of the Services or obligations set forth in this Agreement due to causes beyond its reasonable control.

GOVERNING LAW

This Contract shall be governed by and interpreted in accordance with the laws of the Province of British Columbia and Federal laws of Canada applicable herein. Except as otherwise provided herein, the courts of British Columbia shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning this Contract and any matter arising from it. The parties irrevocably waive any right they may have to object to any action being brought in those courts to claim that the action has been brought to an inconvenient forum, or to claim that those courts do not have jurisdiction.

ASSIGNMENT OF CLAIM

Client agrees that it will not, directly or indirectly, agree to assign or transfer any claim against TTI arising out of this Agreement to anyone.

COUNTERPARTS/FACSIMILE

This Agreement may be executed in counterparts, each of which will be deemed to be an original and all of which will together constitute one and the same instrument. Delivery of an executed copy of this Agreement by any means of electronic communication will be deemed to be an original.

- END -

July 15, 2022

Skeena Sawmills Ltd.
Suite 1500 – 701 West Georgia Street
Vancouver, BC V7Y 1C6

Terrace Timber Ltd.
3103 Hampton Street
Terrace, BC V8G 1N9

Re: Log Rate Resolution and Long-Term Log Rate Model

Dear Greg DeMille and Greg Main,

Re: Professional Services Proposal for Log Rates

TimberTracks Inc. is pleased to provide Skeena Sawmills Ltd. and Terrace Timber Ltd. with this professional services proposal. We are proud of the opportunity to serve you and appreciate your confidence in our work.

The attached professional services agreement outline our proposal. We would be pleased to schedule a meeting or call with you to answer any questions you may have.

If the proposal and the terms are acceptable, please sign and return this letter where indicated below.

Sincerely,



Aaron Sinclair
Founder

The professional services proposal, the standard terms and conditions in the appendix, and this letter, executed either together or in counterparts, shall together form a Professional Services Agreement which is agreed to on the 29 day of July, 2022 by:

Skeena Sawmills Ltd.

Terrace Timber Ltd.

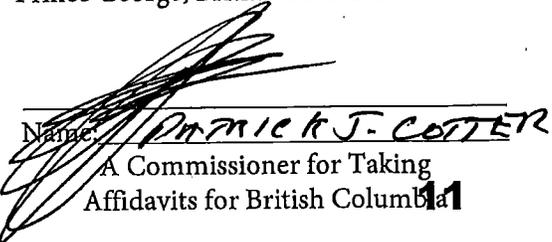


Per: Greg DeMille
Title: Vice President of Operations

Per:
Title:

TTI PSA (Skeena & Terrace) - 2022-07-15.docx

This is Exhibit "C" referred to in the affidavit of Aaron Sinclair affirmed before me on ~~August~~ ^{SEPTEMBER} 1, 2023 at the city of Prince George, British Columbia.



Name: Darrick J. Cotter
A Commissioner for Taking Affidavits for British Columbia

Project Definition

Skeena Sawmills Ltd. ("Skeena") and Terrace Timber Ltd. ("Terrace") are seeking an alternative to arbitration to resolve log rates for approximately 120,000m³ of already logged timber performed by Terrace for Skeena.

It is understood by Timber Tracks Inc. ("TTI") that Terrace has logged approximately 120,000m³ of timber from up to 13 logging blocks wherein a final rate has not been determined. This is in addition to other volume that the parties are currently in arbitration to resolve. It is understood that some or all of this volume is from one or more replaceable contracts under the Timber Harvesting Contract and Subcontract Regulation of the *Forest Act* (the "Regulation").

TTI shall collect information from the parties that is expected to include, but not be limited to, confirmation of volume of work completed, operating circumstances including where and when work was performed, timber cruises for work completed, any provisional rates agreed to between the parties for the work, pro formas developed by either party for the work, history of correspondence between the parties related to rates for the work, concerns regarding conditions, and any other matters that could affect the operating circumstances. At TTI's sole discretion, TTI may request one or both parties tour TTI's representatives of the work site(s) to validate operating circumstances and issues that may be raised by one or the other.

To the best of its ability, acting reasonably, TTI shall follow the considerations outlined in s.26.01 and s.26.02 of the Regulation when determining the final rates. The final determination of rates will be presented in a format decided by TTI and may be on a per cubic metre, as a final value, on a per block, or on the entire package of work basis.

TTI will use methods, as solely determined by TTI, to establish logging rates for work performed by Terrace for Skeena. TTI will engage with both Terrace and Skeena and solicit feedback on rate development, data sources, and validation of outputs. TTI will use its published Hourly Equipment Rates from the time the work was performed, or derivative works thereof, adjusted for local operating conditions and circumstances when determining appropriate hourly equipment costs. Fuel and lubricant costs used in hourly equipment costs shall be used from the time the work was performed. Labour costs will be based on the United Steel Workers Coast Master Logging Agreement wages in effect during the time the work was performed.

It is understood by TTI that this engagement would be an alternative to arbitration and that Skeena and Terrace, by way of an agreement between them, have agreed that TTI's determination of rates for the historical work is final and binding without recourse. Furthermore, the parties agree to fully indemnify and hold harmless TTI for any claims either party may have against TTI in relation to the final determination of rates.

Confidentiality of information shall be a prime condition of this Agreement. It is expected that both Skeena and Terrace will be required to disclose confidential information to TTI that, if disclosed to the other party, could result in financial and reputational harm to their businesses. Any confidential information disclosed by either party to TTI will be kept in strictest confidence by TTI and shall not be shared with the other party.

Skeena and Terrace are joint and several parties to this agreement with TTI with the understanding that each party will pay half of the cost. Neither party is permitted to use TTI's work for any purposes except for the determination of logging rates between Terrace and Skeena. Without TTI's prior written consent, which can be arbitrarily withheld at TTI's sole discretion, neither party shall disclose the rates to any third-party to this Agreement.

Fees

The fee for the engagement will be on a time and expenses basis. Time and expenses shall be billed according to the rate schedule on an arrears basis. While the budget has been estimated based on prior experience, actual cost may be higher or lower. A retainer of \$60,000, paid \$30,000 each, will be required prior to commencement of work by TTI.

The fee is exclusive of taxes and approved reimbursable expenses. The estimated payment schedule for the fee shall be in accordance with the milestones set out below.

MILESTONES

#	MILESTONE	DATE	FEE PERCENT	PAYMENT AMOUNT
1	Commencement	2022-08-02	--	\$60,000 + GST
2	Monthly Billing	2022-08-31	--	According to Rate Schedule
3	Monthly Billing	2022-09-30	--	According to Rate Schedule
4	Monthly Billing	2022-10-31	--	According to Rate Schedule
5	Final Rate Resolution	2022-11-01	--	--

RATE SCHEDULE

ITEM	DETAIL	UNIT	RATE
Advisor Rates	Project Manager	hour	\$350.00
	Senior Advisor	hour	\$300.00
	Advisor	hour	\$250.00
	Associate	hour	\$150.00
Expenses	Vehicle	kilometre	\$1.00
	Other Expenses	actual cost	+ 20%

BILLINGS

Invoices will be issued monthly based on hours worked or according to the milestone schedule. Invoice will include all fees and expenses incurred during the billing period. Payment is to be made within 20 days. Late payments will incur a late payment penalty of 2% per month (26.82% per annum) from date of invoice. Payments can be made by cheque or electronic funds transfers.

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Reliance on drafts – during the engagement we may provide oral comments, or written reports, letters, schedules or hard or soft copies of electronic work products in draft form. As these represent work in progress and not our final report, we do not assume any responsibility in respect of them. The final results of our work will be contained in our final written report. If oral advice is being provided in lieu of written reports, TTI cannot be held responsible for such advice unless we confirm such advice in writing.

Use and purpose of advice and reports – any advice given or report issued by us is provided solely for your use and benefit and only in conjunction with the purpose in respect of which the Services are provided. Unless required by law, you shall not provide such report to any third party or refer to us or the Services without our prior written consent, which we may at our discretion grant, withhold or grant subject to conditions. In no event, regardless of whether consent has been provided, shall we assume any responsibility whatsoever to any third party to which any advice or report is disclosed or otherwise made available. You acknowledge that TTI's advice is based on experience and that TTI does not provide professional advice regarding taxation, legal, or other statutory matters. You should seek professional advice prior to acting on any advice from TTI on these matters.

INFORMATION AND ASSISTANCE

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Responsibility for information provided – any reports issued or advice provided by us may be based on information provided by the Client and on the Client's behalf. Where the Services include consideration of future-orientated financial information, our work will not constitute an examination, compilation or specified procedures in accordance with standards established by the Canadian Institute of Chartered Accountants. Accordingly, we assume no responsibility and make no representations with respect to a) the accuracy or completeness of any information provided by the Client and on the Client's behalf, or b) any reports issued or advice provided by us to the extent based on inaccurate or incomplete information provided by the Client or on the Client's behalf.

PERSONAL INFORMATION PROTECTION

The Client hereby acknowledges and agrees that i) in the course of providing the Services, TTI may be granted access to Personal Information (as defined in applicable law) about the Client and/or individuals in respect to whom the Client collects, uses, holds or encloses Personal Information, and ii) the Services are being provided on the basis that the Client represents and warrants that the Client will disclose, transfer or grant access to such Personal Information only in accordance with applicable legislation in respect of the protection of Personal Information, including but not limited to obtaining any required consents for collection, use and disclosure to us. In addition to any other liability for breach of these Standard Terms and Conditions, the Client shall upon demand, indemnify TTI, and the TTI Personnel, for any claim, demand, debt, action or liability to any third party, including legal costs and disbursements, arising out of or in respect of any breach of the Client's obligations under this paragraph.

We agree that we will receive, collect, use, hold and disclose such Personal Information in compliance with all laws applicable to such Personal Information.

FEEES AND ADDITIONAL SERVICES

Fee basis – our fees and expenses will be charged on the basis set out in the Agreement.

Changes to Services – either party may request changes to the Services. We shall work with you to consider and, if appropriate, to vary any aspect of the engagement, subject to payment of reasonable additional fees and a reasonable additional period to provide any

additional Services. Any variation to the Contract shall be set forth in a written addendum which upon execution by the parties shall form part of the Contract and to which these Standard Terms and Conditions shall apply.

Payment of fees – time for payment of fees and expenses shall be of the essence. If we do not receive payment of any invoice within the time stated in the Agreement we shall be entitled, without prejudice to any other rights that we may have in law or equity, to charge you interest accruing on the date of the invoice at the annual rate of 26.86%, to suspend immediately provision of the Services until all sums due are paid in full, and at our cost register a secured interest in all your present and future acquired assets. Further, if you disagree with or question any amount due under an invoice submitted to us, you shall communicate such disagreement to us, in writing, within 10 days of the invoice date. Any claim not made with that period shall be deemed to be waived.

LIABILITY LIMITATION

Limitation of our liability – in no event shall TTI be liable to Client or any third party for any claim, liability, loss, damage, cost or expense attributable to any act, omission or misrepresentation by Client, its affiliates or their respective personnel.

We will accept liability without limit for (i) death or personal injury caused by our negligence or the negligence of our employees acting in the course of their employment; (ii) any fraudulent pre-contractual misrepresentations made by us on which you can be shown to have relied; and (iii) any other liability which by law we cannot exclude. This does not in any way confer greater rights that you would otherwise have at law or in equity.

In no event shall TTI be liable to Client or any third party for any indirect, special, consequential, punitive, exemplary, incidental or similar damages including, but not limited to, lost profits, lost revenues, failure to realize expected savings, loss of data, loss of business or goodwill, cost of capital or third party claims, whether such liability is based on breach of contract, negligence or any other tort or otherwise, in connection with or arising out of the Agreement.

Our liability to pay damages for all claims and losses incurred by you as a direct result of breach of contract, negligence or any other tort or otherwise by us in connection with or arising out of the Agreement shall be limited to direct damages and to that proportion only of your actual loss which was directly and solely caused by us, and in no event shall our aggregate liability exceed the total amount of fees paid by you to TTI under this agreement.

Where there is more than one addressee to the Agreement, the limit of the liability specified in the immediately preceding paragraph will have to be allocated among such addressees. It is agreed that such allocation will be entirely a matter for the addressees, who will be under no obligation to inform us of or if (for whatever reason) no such allocation is agreed, no addressee will dispute the validity, enforceability or operation of the limit of liability on the grounds that no such allocation was agreed.

INDEMNITY AGAINST THIRD PARTY LIABILITY

You agree to indemnify and hold harmless TTI and our respective Personnel from any and all third party claims, liabilities, losses, damages, costs and expenses relating to the Services, except to the extent finally determined to have resulted from our wilful misconduct or fraudulent behaviour.

TERMINATION

Right to terminate Agreement – either party may terminate this Agreement by giving written notice which will have immediate effect. Client will be responsible for reasonable fees and expenses incurred to the effective date of termination, taking into account the circumstances of termination, and including the fees and expenses of any agent or subcontractor hired by us. Where Client terminates the contract for convenience, Client will pay TTI for all reasonable costs necessarily incurred as a result of early termination of the Services. TTI may also resign from performing all or any portion of the Services and terminate this Agreement immediately upon written notice in the event that circumstances arise that would make continuation of all or any portion of the Services by TTI in conflict with any independence or other professional regulations, standards or guidelines to which TTI conforms.

Continuation of terms – this Agreement will continue until the Services have been provided unless it is terminated earlier in accordance with the terms set out elsewhere herein. The following sections of this Agreement will survive completion of the Services or its earlier termination: Personal Information Protection, Liability Limitation and Indemnity against Third Party Liability, and such other provisions of this Agreement which by their nature are intended to survive.

ELECTRONIC MAIL (“E-MAIL”) COMMUNICATIONS

During the engagement, we may from time to time communicate electronically with each other. However, as you are aware, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. The parties shall not have any liability to each other arising from or in connection with the electronic communication of information to or from the Client during or as a result of its



electronic transmission outside of our electronic environments. If the communication relates to a matter of significance and there are concerns about possible effects of electronic transmission, you agree to request such information in hard copy transmission only.

WORKING FOR OTHER CLIENTS

TTI may be asked to provide services to other clients that may be in competition with you or whose interest may conflict with your own. We will not be prevented or restricted by virtue of our relationship with you under this Agreement from providing services to other clients. Except as required by law or professional regulations, we will maintain the information obtained during the course of this engagement confidentially and will not communicate such information to any other TTI Personnel who are providing services to such other clients.

LEGAL PROCEEDINGS

In the event we are requested or authorized by you or required by government regulation, subpoena or other legal process to produce our working papers or our Personnel as witnesses with respect to our engagement with you, you will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our reasonably expended professional time and expenses, as well as reasonable fees and expenses for our counsel incurred in responding to such a request.

SEVERABILITY

If any of the provisions of this Agreement are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and be binding on the parties to the fullest extent permitted by law.

FORCE MAJEURE

Neither party shall be liable to the other (except payment obligations) for any delay or failure to perform any of the Services or obligations set forth in this Agreement due to causes beyond its reasonable control.

GOVERNING LAW

This Contract shall be governed by and interpreted in accordance with the laws of the Province of British Columbia and Federal laws of Canada applicable herein. Except as otherwise provided herein, the courts of British Columbia shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning this Contract and any matter arising from it. The parties irrevocably waive any right they may have to object to any action being brought in those courts to claim that the action has been brought to an inconvenient forum, or to claim that those courts do not have jurisdiction.

ASSIGNMENT OF CLAIM

Client agrees that it will not, directly or indirectly, agree to assign or transfer any claim against TTI arising out of this Agreement to anyone.

COUNTERPARTS/FACSIMILE

This Agreement may be executed in counterparts, each of which will be deemed to be an original and all of which will together constitute one and the same instrument. Delivery of an executed copy of this Agreement by any means of electronic communication will be deemed to be an original.

- END -

From: Walker Main
To: Chris Moore
Subject: FW: Agreement to determine GBS rate on 5RG 6-20-5
Date: Wednesday, January 4, 2023 1:29:38 PM
Attachments: [image001.jpg](#)
[image002.png](#)

23

From: Tim Moser <Tim.Moser@skeenasawmills.com>
Date: Friday, November 4, 2022 at 10:57 AM
To: 'Aaron Sinclair (TimberTracks)' <aaron@timbertracks.ca>
Cc: Walker Main <Walker@mainlogging.com>, Dan Main <dan@mainlogging.com>, Mark Reiter <Mark.Reiter@skeenasawmills.com>, Tyler Power <Tyler.Power@skeenasawmills.com>, Jeff Calvert <jeff@pnlconsulting.ca>
Subject: Agreement to determine GBS rate on 5RG 6-20-5

Hi Aaron,

Skeena and Terrace Timber have agreed to have you determine a GBS rate for 6-20-5. The block was mapped/appraised as cable, but has been hoechucked with only a small area felled but not yarded (appx. 0.9ha). We have agreed that the 0.9ha of area not yarded will be left as waste. Please determine the rate based on ground-based hoechuck harvest with the revised area.

I've copied Walker and Dan Main on this email for everyone's records.

Terrace Timber also wanted to confirm that blocks 4JL KIT005 and 5RG 6-30-3 were included in the block set you are determining rates on. That is Skeena's understanding as well. Logging should be complete in a few weeks and we can provide scale data etc. at that time.

Thanks

Tim Moser, RPF | Operations Superintendent | Skeena Sawmills Ltd
Phone +250 635 6336 x1026 | Cell +250-615-9002 | tim.moser@skeenasawmills.com
5330 Hwy 16 West, Terrace BC V8G 0C6



PJC This is Exhibit "D" referred to in the affidavit of Aaron Sinclair affirmed before me on ~~August~~ ^{SEPTEMBER} 1, 2023 at the city of Prince George, British Columbia.

Name: PATRICK J. COTER
A Commissioner for Taking Affidavits for British Columbia

17

From: Aaron Sinclair (TimberTracks)
To: Walker Main
Cc: Jeff Calvert
Subject: Re: Skeena Blocks
Date: Monday, November 7, 2022 11:35:27 AM
Attachments: image001.png
image002.png

24

Thanks Walker.

Skeena has advised that they do not consider the trucking rates to be a part of this process. They believe that our agreement was only for logging rates loaded on a truck.

I'll leave it for you guys to discuss direction on that.

Thanks,
Aaron

From: Walker Main <Walker@mainlogging.com>
Date: Monday, November 7, 2022 at 11:30 AM
To: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>
Cc: Jeff Calvert <jeff@pnlconsulting.ca>
Subject: Skeena Blocks

Aaron, Jeff

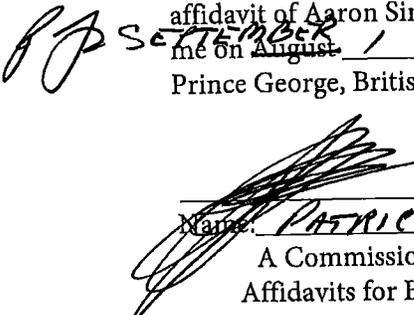
To follow up on Skeenas email regarding blocks 6-20-5, Kit005 and 6-30-3, I did agree to include them in the rate determination with you guys, however they are not to hold up the current rate determination your currently doing for the completed blocks and the trucking rates.

These blocks listed above have not been completed and signed off, it's unlikely they will be by December, now that we have snow in them, likely in the spring. I will get you all our info on these blocks once they have been completed and signed off.

Give me a shout if there's any questions, otherwise we will just expect rates on the completed blocks and the trucking rates and proceed with other blocks after.

Regards,

This is Exhibit "E" referred to in the affidavit of Aaron Sinclair affirmed before me on SEPTEMBER 1, 2023 at the city of Prince George, British Columbia.


Name: PATRICK J. COTTER
A Commissioner for Taking Affidavits for British Columbia



Walker Main

Main Logging LTD.

3103 Hampton st.

Terrace B.C

V8G-1N9

Office: 250 635 7150

Cell: 250 893 4537

Fax: 250 635 6598

www.mainlogging.com

December 21, 2022

Skeena Sawmills Ltd.
Suite 1500 – 701 West Georgia Street
Vancouver, BC V7Y 1C6

Terrace Timber Ltd.
3103 Hampton Street
Terrace, BC V8G 1N9

Re: Preliminary Log Rate Determination

Timber Tracks Inc. is pleased to provide Skeena Sawmills Ltd. and Terrace Timber Ltd. with our preliminary rate determination for 11 blocks in dispute with a total delivered volume of 144,604 cubic metres. This determination is preliminary as we are still waiting for some information from Terrace on three of the blocks just completed. Both Skeena and Terrace have requested that we not delay production of the report and therefore our rate determination is preliminary until that information is received. We do not anticipate material variances in our preliminary rate determination however, it is prudent to review the information before the rate determination is finalized.

Our report outlines the considerations used to provide this rate determination. We undertook a comprehensive review of information provided by both parties when applying our professional opinion to the rate determination.

Our preliminary rate determination is a rate of \$49.29 per cubic metre for the entire package of work. We also found that there were opportunities, primarily for Skeena, that had they been done, could have reduced the rate by \$3.85 per cubic metre to \$45.44 per cubic metre.

We appreciate the opportunity to serve you and trust you will be satisfied with our report.

If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,



Aaron Sinclair
Founder

TTI Preliminary Report – Skeena & Terrace Logging Rates - 2022-12-21.docx

This is Exhibit "F" referred to in the
affidavit of Aaron Sinclair affirmed before
me on August 1, 2023 at the city of
Prince George, British Columbia.

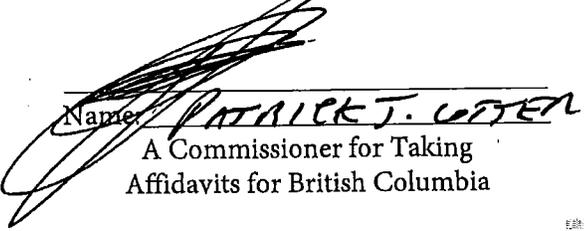

Name: PATRICK J. USHER
A Commissioner for Taking
Affidavits for British Columbia

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Introduction

Skeena Sawmills Ltd. ("Skeena") and Terrace Timber Ltd. ("Terrace") are licence holder and contractor, respectively, within the definition of the Timber Harvesting Contract and Subcontract Regulation¹ of the *Forest Act* (the "Regulation") and are each a party or parties referred to individually or collectively within this report.

Skeena and Terrace have been unable to agree on logging rates for certain services performed by Terrace, as contractor, for Skeena, as licence holder, on Tree Farm Licence 41 ("TFL41"). The parties have decided to forgo the dispute resolution methods outlined in the Regulation in favour of an independent review of work and determination of logging rates by Timber Tracks Inc.

This report provides the final determinative rates for the following harvesting blocks. Total delivered volume on all the blocks is 144,604 cubic metres:

Block	Merch Area ha	Harvested ha	Cruise m3	Delivered m3	Variance m3
21-100-6	94.1	93.4	48,473	25,769	53.2%
30-1000-14	39.4	38.5	18,778	11,799	62.8%
30-2000-6	18.1	17.3	10,211	6,719	65.8%
30-2000-8	27.7	26.2	15,341	7,605	49.6%
5-5-16	17.3	13.6	7,399	4,597	62.1%
6-0-2	35.1	32.1	19,415	16,010	82.5%
6-20-5	3.8	2.9	2,588	1,223	47.3%
6-30-3	34.2	31.8	22,465	10,859	48.3%
KIT003	29.8	26.0	13,159	11,692	88.9%
KIT005	39.9	38.2	21,573	19,475	90.3%
KIT007	86.4	85.9	45,636	28,854	63.2%
Totals	425.8	405.9	225,038	144,604	64.3%

This report is the preliminary report awaiting final information from Terrace on 6-20-3, 6-30-5 and KIT005. Our analysis otherwise included those three blocks.

¹ https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/22_96

Determining Logging Rates

The British Columbia forest sector has regulated contractors and market contractors. A logging contractor can be either or both types of contractors. A logging contractor contracts services to a tenure holder who may be a licensee with a right to harvest land owned by the Crown, an owner of fee-simple lands that they wish to harvest, or may the right to harvest timber that is owned by someone else entirely.

Regulated contractors have a contract that is regulated by the Regulation which is commonly referred to by multiple names such as a Bill 13 contract, a replaceable contract, or an evergreen contract. For the purposes of this report, these contracts will be referred to as Bill 13 contracts. A Bill 13 contract is attached to one or more forest licenses, of whatever type, issued by the Province of British Columbia for the right to harvest crown land.

Bill 13 contracts carry with them obligations on both the contractor and the tenure holder. Without repeating the requirements outlined within the Regulation, it outlines how the contractor and the tenure holder determine rates and how to legally resolve any rate disputes.

A market contractor is a logging contractor who enters into a commercial relationship with the tenure holder. These commercial relationships are not regulated and are only subject to the terms agreed to between the contractor and the tenure holder. The contracts may include harvesting from a forest license of Crown timber.

When determining logging rates for a Bill 13 contract, the license holder and contractor should consider a number of factors that determine the best appropriate rate for the services to be provided to the contractor. The following factors should be considered:

1. Amount of annual work to be performed.
2. Operating circumstances for the work.
3. Contract conditions that affect contractor's ability to perform the work.
4. Level of trust and communication between the parties.

Each of these factors, and how they affect the opinion for this project, are discussed in subsequent sections of this report.

CONTRACT TERMS

Skeena is the holder of TFL41, a form of area-based tenure that provides the licence holder with a near exclusive right to harvest timber on a specific area of Crown land. Terrace has a Bill 13 contract with Skeena to perform 100% of the logging work on TFL41. The current contract between the parties is contract number TERTI-15-00 with a date of January 1, 2015 and an end date of December 31, 2019 (the "Contract"). It is understood that the parties have not agreed to a new contract and, under terms of the Regulation, the Contract remains in force until that situation is resolved.

Under Part 2, section 2.2 of Schedule "A" of the Contract, amongst other specific elements of the work, Terrace is required to fall, limb, buck, yard or skid, process, sort, load, mark and haul all timber produced under the Contract within the Skeena's log specifications. Further, Terrace is required to clean up waste and debris, deactivate and, when directed, rehabilitate trails and other services related to the harvesting work.

Under Part 4, section 4.4 of Schedule "A" of the Contract, Terrace is required to conduct access road maintenance including grading and spot surfacing, cleaning of culverts, installation of waterbars and cross ditches, and other activities as directed by Skeena. There is no specific mention of snow removal, a significant item for winter operations, however it could be included under other activities as directed. Access road maintenance is not a scope of work detailed in the main agreement or a specific element of work under Part 2 of Schedule "A" but is still a condition within the Contract.

Under Part 8, section 8.6 of Schedule "A" of the Contract, Skeena is required to pay Terrace for any work within a pay period at least twice per month according to a pre-defined schedule of payments.

Under Part 9, section 9.1 of Schedule "A" of the Contract, Skeena is permitted to curtail and suspend Terrace's operations for a series of reasons including market conditions and over supply of logs. This section recognizes that Terrace is not

liable to Skeena for failures to perform as a result of a curtailment or suspension of work initiated by Skeena other than curtailments or suspensions for market price of logs.

Under Part 11, section 11.1 of Schedule "A" of the Contract, Skeena is permitted to terminate the contract after 20 business days after notification by Skeena of a material breach of the Contract by Terrace if the material breach is not remedied. There is no definition within the Contract of what constitutes a material obligation.

These contract terms are all considered material terms when considering the impact on the rate determination.

Considerations for Rate Determination

The following are the considerations used when determining the rate in this report.

PAYMENT FOR SERVICES

Skeena has had a multi-year history of late or delayed payments for services to its contractors. Occasional late or delayed payments are an unfortunate circumstance but regular occurrences are a reason for concern. Both parties have agreed that Skeena is late or has delayed payments on a frequency greater than occasional.

Late or delayed payments add increased risk and working capital requirements to a contractor's operations. Both factors lead to **upward rate pressure**.

AMOUNT OF WORK

On the premise that there are summer and winter seasons for logging, it is best practice for licence holders to have three seasons of fully permitted and developed blocks available for their contractors to harvest. This means a licence holder would have approximately 18 months of work available for a contractor. Fully permitted and developed blocks means that the cutting permits have been issued, roads have been fully built, and the contractor could commence harvesting immediately on direction of the licence holder.

The benefit of having this amount of standing timber inventory available is that it provides both the licence holder and the contractor with predictability of upcoming harvest expectations, a proper work plan to operate to, and alternative options if unforeseen factors impact a logging block scheduled for the current season. For example, if harvesting in winter season and an unexpected event, such as a significant avalanche, prevents access to a block, a block from the subsequent winter season could be brought forward to the current season so the contractor is able to continue work and the licence holder continues to receive logs.

The Contract specifies a requirement that Terrace is provided 100% of the harvesting from TFL41. Effective January 31, 2012, the Chief Forester for British Columbia provided a rationale for annual allowable cut ("AAC") determination for TFL41 at 128,000 cubic metres per year. According to the Contract, Terrace must be prepared to perform the work to harvest up to 128,000 cubic metres per year.

As a best practice, Skeena should have three seasons of work planned and provided to Terrace at all times. This provides clarity to Terrace of Skeena's work expectations over the next 18 months and allows efficient utilization of resources. Best practice planning provides **downward rate pressure**.

OPERATING CIRCUMSTANCES

Engineering for block design and harvesting practices should consider efficient utilization of the contractor's fleet of equipment. A Bill 13 contractor must be ready, willing, and able to perform the required work on relatively short notice from the licence holder. If engineering requires little use of certain equipment over a year, that phase of work may require a premium to either maintain that equipment availability or to subcontract that amount of work. For example, efficient utilization of a skidder may require 2,000 hours per year but a plan and engineering that requires 1,200 hours per year recognizes that the contractor must have skidding capacity available but that the utilization will not be efficient. The contractor must cover its annual ownership costs which leads to either a higher skidding rate, finding alternative work, or subcontracting skidding capacity.

Higher skidding rates are commercially unlikely. Finding alternative work is an option if there are skidding opportunities within a reasonable distance and the work plan allows the contractor to deploy a skidder elsewhere to get its efficient annual utilization. A work plan that does not allow a contractor to find reasonable alternative work means this may not be an option. Lastly, subcontracting the work is only a realistic option if there is local skidding capacity that is unutilized and can meet the schedule requirements. If scheduling is mismatched, subcontracting may require extended schedules for work to be performed.

The schedule to perform work and engineering of blocks must ensure that personnel and equipment can be utilized in an efficient manner. Factors such as phase congestion, inappropriate scheduling, and inefficient harvesting methodologies can all lead to inefficient operations.

Conversely, a Bill 13 contractor should not over equipment their fleet and should ensure their primary production machines are late model machines or machines in good repair that have undergone substantive rebuilds to ensure proper operating efficiency. Uptime is a major factor for contractors being able to be efficient and productive. Machines in disrepair that result in downtime affect this efficiency and productivity. These factors are solely within the contractor's control and require that the contractor maintain their equipment for maximum reliability and productivity.

A proper plan schedule is one of the greatest factors to impact utilization. A phase should enter a block, perform its scope, and move to the next block that is ready for that phase to be executed. An even flow of work, by phase, scheduled through a year will maximize utilization of personnel and equipment and leads to **downward rate pressure**.

ENGINEERING

Engineering and design of a block can have significant impact on rates. Engineering can set a contractor up for success or for failure. It is important that planned harvesting methods, and logging rates, should be discussed between Skeena and Terrace with consideration to adapting the plan that improves block economics for both parties.

DELIVERY CURTAILMENTS

The even flow of operations is an important component of equipment and personnel utilization. Significant delivery curtailments lead to personnel challenges, equipment downtime, contractor working capital requirements that have an impact on the logging rate.

In our analysis of the correspondence provided by Skeena and Terrace, over the period of deliveries through to the summer of 2022, Skeena's scales were closed or deliveries were curtailed more than 12% of the time. This is a substantive impact on operational flow of Terrace and has resulted in **upward rate pressure**.

ROAD MAINTENANCE

Road maintenance in the Contract is not a core component of the work. It is a requirement of the Contract but is not a material obligation. Road maintenance rates should be negotiated separately from the specific scope of work within Part 2 of Schedule "A" of the Contract.

Following best practice of having three seasons of work fully permitted and developed, summer road maintenance is relatively predictable based on the work, engineering, planning, and settled state of built roads. Under these conditions, a per cubic metre rate for summer road maintenance is an appropriate rate mechanism. Green roads that are not settled have a degree of uncertainty that make predictability difficult. A contractor required to repair roads as a result of being new or deficient construction is not predictable. In these circumstances a contractor should be paid by the hour in addition to the normal road maintenance costs.

Winter road maintenance in areas with frequent and significant snow events is not a predictable operating environment for a contractor. Furthermore, snow is not a specified scope of work for road maintenance in the Contract. While it could be included as an additional activity as required, due to its unpredictability, snow removal should be paid by the hour. The timing of snow removal is predicated on weather and the need to maintain efficient operations. Delays in snow removal have a direct impact of logging efficiency and will lead to **higher rate pressure**.

TRUST AND COMMUNICATION

The review of correspondence and communication between the parties indicates a high-level of mistrust. It is certain that if the parties wish to continue working together, substantial work needs to be done to improve trust and healthy communication between them.



Rate Determination

METHODOLOGY

TimberTracks undertook three analyses – two quantitative and one qualitative – to help to determine a fair and reasonable rate for work undertaken by Terrace for the subject blocks.

The first quantitative analysis took time sheet data from Terrace and applied industry-standard hourly charge-out rates developed by TimberTracks to determine the costs to log the subject blocks. Rates applied include operator time, maintenance and ownership costs for equipment and fuel. Variations in fuel costs, which have been significant in the last 24 months, are taken into account, and machine hourly rates are assigned on a monthly basis.

The second quantitative analysis applied phase productivity rates for the coastal BC region to the amount harvested. This determined how many hours, under normal working conditions, it would take for the machines used (yarders, hoe-chuckers, loaders, skidders and processors) to complete the work. The number of hours was then multiplied by the TimberTracks hourly rate for the specific machine during the month work was completed to result in an "optimal" operating cost.

In practical terms, the second quantitative analysis pertains to yarding, hoe-chucking, processing and loading phases specifically.

The qualitative analysis performed involved working through the substantial amount of communication and background information provided by both Skeena and Terrace to develop a comprehensive, 360 degree understanding of the working relationship between the parties, the direction provided to Terrace by Skeena in the conduct of their work and the response to environmental and other challenges faced in the process of logging the blocks by Terrace and Skeena. This qualitative analysis helps to inform the validity and applicability of the first two quantitative analyses to the rate determination.

FINAL RATE DETERMINATION

Considering the factors outlined within this report, the rate that should be paid for logging stump to truck in the subject blocks is **\$49.29 per cubic metre** on 144,604 cubic metres of timber, or \$7,127,531.

Considering the factors earlier in this report that indicate opportunities for efficient logging operations that are within the control of Skeena, the impact of not implementing these factors on the subject blocks is determined to be \$3.85 per cubic metre. Had Skeena implemented these factors, it could have realized a rate of \$45.44 per cubic metre or saved \$556,725.

Snow clearing, if the responsibility of Terrace, should be paid by the hour.

Trucking

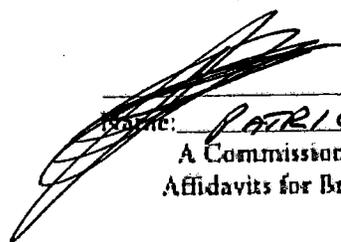
The scope of this engagement was limited to stump to truck. The parties could not agree to including an assessment of trucking rates.

Skeena has indicated that it is still using a model developed from TimberTracks that was provided in 2016. It is unknown whether this model has been updated for changes in input costs. The last version of this model provided by TimberTracks indicated a rate for a tridem pole trailer configuration of \$143.17 per hour for Coastal operations. Current rates, some six years later, for that configuration reflect an hourly rate of \$221.76 per hour.

The main reasons for the substantial increase in the hourly rate are the cost of the truck and trailer, fuel prices, and increasing labour costs as both a result of pay increases but also statutory costs.

If the trucking model has not been updated, it is recommended that the model be revised and maintained on an ongoing basis.

This is Exhibit "G" referred to in the affidavit of Aaron Sinclair affirmed before me on SEPTEMBER 1, 2023 at the city of Prince George, British Columbia.


 Name: PATRICK J. COTTEN
 A Commissioner for Taking Affidavits for British Columbia

From: Greg DeMille <Greg.DeMille@skeenasawmills.com>
 Date: Tuesday, January 3, 2023 at 3:06 PM
 To: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>, Mark Reiter <Mark.Reiter@skeenasawmills.com>, Tim Moser <Tim.Moser@skeenasawmills.com>, Tyler Power <Tyler.Power@skeenasawmills.com>, Walker Main <walker@mainlogging.com>, Dan Main <dan@mainlogging.com>
 Cc: Greg Main <Greg@mainlogging.com>, Jeff Calvert <jeff@gnkconsulting.ca>
 Subject: RE: EXT - Preliminary Rate Determination

Hi Aaron,

We have had an opportunity to complete an initial review of your preliminary rate determination dated December 21, 2022 which we understand remains subject to change. While we appreciate the work that you have put into it to date, we have serious concerns regarding the methodology you have applied which appears to be fundamentally inconsistent in many material respects with the framework established by ss. 26.01 and 26.02 of the *Timber Harvesting Contract and Subcontract Regulation* which expressly formed part of the terms of reference for your work.

We respectfully request that you immediately cease any further work on this matter while we complete our review of the preliminary report. If you are unable or unwilling to agree to this request, please consider this email written notice of termination of your retainer in this matter.

Regards,

Greg DeMille MSc., RPF | Chief Operating Officer | Skeena Sawmills | Skeena Bioenergy
 Phone +250 635 6336 Ext. 1110 | Cell +250-803-7719 | greg.demille@skeenasawmills.com
 5110 Hwy 10W, Terrace BC V8G 0C6



From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>
 Sent: December 22, 2022 12:41 PM
 To: Mark Reiter <Mark.Reiter@skeenasawmills.com>; Tim Moser <Tim.Moser@skeenasawmills.com>;
 Tyler Power <Tyler.Power@skeenasawmills.com>; Walker Main <walker@mainlogging.com>; Dan Main
 <dan@mainlogging.com>
 Cc: Greg Demille <Greg.Demille@skeenasawmills.com>; Greg Main <Greg@mainlogging.com>; Jeff
 Calvert <jeff@pniconsulting.ca>
 Subject: EXT - Preliminary Rate Determination

Gentlemen,

Please see attached preliminary report for the rate determination of blocks in dispute.

The cover letter indicates that this is a preliminary report and we intend to finalize shortly after receiving final details from Terrace Timber on the three final blocks.

As previously communicated, we have not assessed the trucking rate but have provided an updated hourly rate from our original model back in 2016.

We would be pleased to conduct individual or joint review session(s) in the new year to discuss our conclusions.

On behalf of Jeff and myself, all the best for the holiday season to you and your families!

Thanks,
 Aaron

AARON SINCLAIR
 Founder

250.961.3114 www.timbertracks.ca

TIMBER

TRACKS

*Know more.
 Achieve more.*

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PAC This is Exhibit "H" referred to in the affidavit of Aaron Sinclair affirmed before me on August 1, 2023 at the city of Prince George, British Columbia.

SEPTEMBER 1
 Name: PATRICK J. COTTEN
 A Commissioner for Taking Affidavits for British Columbia

From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>
 Sent: January 3, 2023 4:16 PM
 To: Greg Demille <Greg.Demille@skeenasawmills.com>; Mark Relter <Mark.Relter@skeenasawmills.com>; Tim Moser <Tim.Moser@skeenasawmills.com>; Tyler Power <Tyler.Power@skeenasawmills.com>
 Cc: Greg Main <Greg@mainlogging.com>; Jeff Calvert <jeff@pnlconsulting.ca>; Walker Main <walker@mainlogging.com>; Dan Main <dan@mainlogging.com>
 Subject: Re: EXT - Preliminary Rate Determination

Greg,

I am disappointed to receive this email from you. I disagree with your assessment that our methodology is inconsistent with the engagement. I request you immediately specifically identify where our methodology is inconsistent with the terms of the engagement. We will not cease work, and will not accept your email as notice of termination for your convenience, until such time as you can satisfy me that our work is not compliant with the engagement and that we are unable to cure any default. In case you do not recall the terms of the engagement, I have attached your signed copy of the engagement for your easy reference. I do draw your attention to the termination provisions within the engagement which specify that a termination for convenience carries with it obligations for all reasonable costs associated with a termination for convenience. Terrace Timber Ltd. has indicated they expect us to complete our work under the joint engagement and their intentions to honour their commitments therein.

Also for your convenience, I have attached our December 2022 invoice for works completed during the month. I also note that Skeena is in breach of the terms of our engagement and has not yet paid the November 2022 invoice. I have attached that invoice for your convenience so you can get it paid and cure Skeena's default. I note that Skeena has been late in every payment.

Thanks,
Aaron

AARON SINCLAIR
Founder

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**TIMBER
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Know more.
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From: Greg DeMille <Greg.Demille@skeenasawmills.com>
Date: Tuesday, January 3, 2023 at 3:06 PM
To: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>, Mark Reiter <Mark.Reiter@skeenasawmills.com>, Tyler Power <Tyler.Power@skeenasawmills.com>, Tim Moser <Tim.Moser@skeenasawmills.com>, Walker Main <walker@mainlogging.com>, Dan Main <dan@mainlogging.com>
Cc: Greg Main <Greg@mainlogging.com>, Jeff Calvert <jeff@pnlconsulting.ca>
Subject: RE: EXT - Preliminary Rate Determination

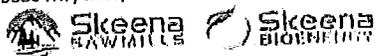
Hi Aaron,

We have had an opportunity to complete an initial review of your preliminary rate determination dated December 21, 2022 which we understand remains subject to change. While we appreciate the work that you have put into it to date, we have serious concerns regarding the methodology you have applied which appears to be fundamentally inconsistent in many material respects with the framework established by ss. 26.01 and 26.02 of the *Timber Harvesting Contract and Subcontract Regulation* which expressly formed part of the terms of reference for your work.

We respectfully request that you immediately cease any further work on this matter while we complete our review of the preliminary report. If you are unable or unwilling to agree to this request, please consider this email written notice of termination of your retainer in this matter.

Regards,

Greg DeMille MSc., RPF | Chief Operating Officer | Skeena Sawmills | Skeena Bioenergy
Phone +250 635 6336 Ext 1110 | Cell +604-803-7719 | greg.demille@skeenasawmills.com
5330 Hwy 16W, Terrace BC V8G 0C6



From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>
Sent: December 22, 2022 12:41 PM
To: Mark Reiter <Mark.Reiter@skeenasawmills.com>; Tim Moser <Tim.Moser@skeenasawmills.com>; Tyler Power <Tyler.Power@skeenasawmills.com>; Walker Main <walker@mainlogging.com>; Dan Main <dan@mainlogging.com>
Cc: Greg Demille <Greg.Demille@skeenasawmills.com>; Greg Main <Greg@mainlogging.com>; Jeff Calvert <jeff@pnlconsulting.ca>
Subject: EXT - Preliminary Rate Determination

Gentlemen,

Please see attached preliminary report for the rate determination of blocks in dispute.

The cover letter indicates that this is a preliminary report and we intend to finalize shortly after receiving final details from Terrace Timber on the three final blocks.

As previously communicated, we have not assessed the trucking rate but have provided an updated hourly rate from our original model back in 2016.

We would be pleased to conduct individual or joint review session(s) in the new year to discuss our conclusions.

On behalf of Jeff and myself, all the best for the holiday season to you and your families!

Thanks,
 Aaron

AARON SINCLAIR
 Founder

250.961.3114 www.timbertracks.ca



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PJ
 This is Exhibit "I" referred to in the
 affidavit of Aaron Sinclair affirmed before
 me on ~~August~~ SEPTEMBER 1, 2023 at the city of
 Prince George, British Columbia.

PATRICK J. WALTER
 Name: PATRICK J. WALTER
 A Commissioner for Taking
 Affidavits for British Columbia

From: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>
Date: January 6, 2023 at 11:27:10 PST
To: Greg Demille <Greg.Demille@skeenasawmills.com>, Mark Reiter
 <Mark.Reiter@skeenasawmills.com>
Cc: Greg Main <Greg@mainlogging.com>, Jeff Calvert
 <jeff@pnlconsulting.ca>, Walker Main <Walker@mainlogging.com>, Dan Main
 <dan@mainlogging.com>
Subject: Re: EXT - Preliminary Rate Determination

Greg,

I respect Skeena disagrees. That is your decision. I was simply clarifying the obvious that our report was preliminary subject only to any future information changing our final determination and that we did not anticipate that information materially changing the final determination. We were not changing anything within the report, just confirming that the language in the section titled "FINAL RATE DETERMINATION" on page 8 stands as presented on December 21, 2022 and that we would not be updating

that for any reason with termination of the engagement. The final rate determination was not incomplete. There would just be no consideration for future adjustments.

I acknowledge that Skeena's opinion is that our methodology was inconsistent with the engagement but refused to provide any specific details how that is the case. Had you done so, we may have considered if there were deficiencies in our methods. As you refused to do so and terminated the agreement, there will be no changes. Again, that is your decision. I simply want to clarify that it was Skeena's decision that we not consider any changes to the final rate determination set out on page 8.

We expect prompt payment of all invoices according to the terms. If necessary, we will utilize remedies within the agreement to ensure payment.

With respect.

AARON SINCLAIR

Founder

250.961.3114 www.timbertracks.ca

signature_1305422930



From: Greg DeMille <Greg.Demille@skeenasawmills.com>

Date: Friday, January 6, 2023 at 10:25 AM

To: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>, Mark Reiter <Mark.Reiter@skeenasawmills.com>

Cc: Greg Main <Greg@mainlogging.com>, Jeff Calvert <jeff@pnlconsulting.ca>, Walker Main <walker@mainlogging.com>, Dan Main <dan@mainlogging.com>

Subject: RE: EXT - Preliminary Rate Determination

Aaron,

Thank you for the note and the invoices. As indicated in our earlier correspondence, we will attend to payment of the invoices in due course.

We respect to your suggestion that your preliminary report is now somehow final, we disagree. The report was preliminary and subject to change when Skeena terminated your engagement. That termination, as set out in our earlier correspondence, was effective immediately in accordance with the terms and conditions of the engagement. As such, you were not and are not in a position to

issue a final report as the engagement terminated upon delivery of our email to you yesterday. The outcome of the termination is that the engagement, and the report, remain incomplete.

Regards,

Greg

From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>

Sent: January 5, 2023 5:48 PM

To: Greg Demille <Greg.Demille@skeenasawmills.com>; Mark Reiter <Mark.Reiter@skeenasawmills.com>

Cc: Greg Main <Greg@mainlogging.com>; Jeff Calvert <jeff@pnlconsulting.ca>; Walker Main <walker@mainlogging.com>; Dan Main <dan@mainlogging.com>

Subject: Re: EXT - Preliminary Rate Determination

Greg,

As per our correspondence, please find attached the outstanding invoices including our final invoice as of today's date. We expect these to be paid immediately. Any delay in payment will result in interest charges being assessed from the date of invoice according to the terms of the engagement.

To conclude the project, I have attached our report dated December 21, 2022 which was sent to all parties on December 22, 2022. The report indicated our final rate determination subject to a final review of additional information not yet received. As the project is complete, no further information is to be provided or analysis to be done and is no longer preliminary. As per the terms of the engagement, our December 21, 2022 report final rate determination for the stump-to-truck logging services for 144,604 cubic metres is \$49.29 per cubic metre for a total of \$7,127,531. Furthermore, our final determination for snow clearing is that it should be paid on an hourly basis and not on a per cubic metre basis.

Our engagement is terminated.

With respect,

AARON SINCLAIR

Founder

250.961.3114 www.timbertracks.ca

image001.jpg

From: Greg DeMille <Greg.Demille@skeenasawmills.com>
Date: Wednesday, January 4, 2023 at 5:43 PM
To: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>, Mark Reiter <Mark.Reiter@skeenasawmills.com>
Cc: Greg Main <Greg@mainlogging.com>, Jeff Calvert <jeff@pnlconsulting.ca>, Walker Main <walker@mainlogging.com>, Dan Main <dan@mainlogging.com>
Subject: RE: EXT - Preliminary Rate Determination

Aaron,

With respect, we are under no obligation to itemize our concerns with your methodology. While you are correct that the engagement provides you with discretion to determine the methods you use to determine the rates, that discretion has limits. It is constrained by the other terms of the engagement including, in particular, the requirement that "TTI shall follow the considerations outlined in s. 26.01 and s. 26.02 of the Regulation when determining the final rates". As I said in my earlier correspondence, Skeena has serious concerns that the methodology you have adopted in your preliminary is fundamentally inconsistent with the rate test and related considerations prescribed under the *Timber Harvesting Contract and Subcontract Regulation*.

In any event, our termination rights under the engagement are not limited to instances of default, as you suggest. The terms and conditions make clear that any "party may terminate [the engagement] by giving written notice which will have immediate effect". There is nothing in the engagement to indicate that this termination right is limited in any way, let alone to instances of default or cause. Our last email makes clear that Skeena is exercising its rights under that provision and the engagement is therefore terminated.

The fact that the engagement was a joint retainer also does not change the outcome. Where one of two joint clients elects to terminate a joint engagement, as Skeena has done here, the only possible outcome is that the engagement comes to an end, regardless of whether the other joint client (Terrace Timber) wishes to proceed. Terrace Timber cannot unilaterally chose to continue the engagement over Skeena's objection, in the same way that a lawyer cannot act for two clients jointly where there is a conflict between the clients.

As I noted earlier, please send your account for any charges incurred since your last invoice and we will attend to payment of the same.

Regards,

Greg

From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>
Sent: January 4, 2023 10:56 AM
To: Greg Demille <Greg.Demille@skeenasawmills.com>; Mark Reiter <Mark.Reiter@skeenasawmills.com>
Cc: Greg Main <Greg@mainlogging.com>; Jeff Calvert <jeff@pnlconsulting.ca>; Walker Main <walker@mainlogging.com>; Dan Main <dan@mainlogging.com>
Subject: Re: EXT - Preliminary Rate Determination

Greg,

I request again you immediately specifically identify where our methodology is inconsistent with the terms of the engagement. The terms of the engagement did not state that we would apply methodology consistent with the rate test in the regulation. I quote from the engagement "TTI will use methods, as solely determined by TTI, to establish logging rates for work performed by Terrace for Skeena." A termination by Skeena on the basis that our methods are inconsistent with the regulation is not a default by us on the terms of the engagement. Therefore, it is only on the basis of convenience for Skeena.

It is unfortunate that Skeena is choosing to intentionally misinterpret the terms of engagement and our work. We will engage with our legal counsel regarding implications for a termination of convenience by Skeena given the joint nature of the agreement and that Terrace has requested we complete the engagement. I will advise once I obtain a response.

Thanks,
 Aaron

From: Greg DeMille <Greg.Demille@skeenasawmills.com>
Date: Wednesday, January 4, 2023 at 10:29 AM
To: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>, Mark Reiter <Mark.Reiter@skeenasawmills.com>
Cc: Greg Main <Greg@mainlogging.com>, Jeff Calvert <jeff@pnlconsulting.ca>, Walker Main <walker@mainlogging.com>, Dan Main <dan@mainlogging.com>
Subject: RE: EXT - Preliminary Rate Determination

Aaron,

We disagree that this is a termination “for convenience”. Based on our review of your preliminary report, we have legitimate concerns that the methodology you have set out in your report is inconsistent with the rate test and related considerations prescribed under the *Timber Harvesting Contract and Subcontract Regulation*. While we worked through those concerns, we had asked that you cease work on this matter. Given your refusal to do so, we hereby exercise our right to terminate the engagement, effective immediately.

Please forward your invoice for any additional fees and expenses incurred since your invoice for December 2022 time and we will attend to payment of the same in due course together with your other invoices.

Regards,

Greg

From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>
Sent: January 3, 2023 4:16 PM
To: Greg Demille <Greg.Demille@skeenasawmills.com>; Mark Reiter <Mark.Reiter@skeenasawmills.com>; Tim Moser <Tim.Moser@skeenasawmills.com>; Tyler Power <Tyler.Power@skeenasawmills.com>
Cc: Greg Main <Greg@mainlogging.com>; Jeff Calvert <jeff@pnlconsulting.ca>; Walker Main <walker@mainlogging.com>; Dan Main <dan@mainlogging.com>
Subject: Re: EXT - Preliminary Rate Determination

Greg,

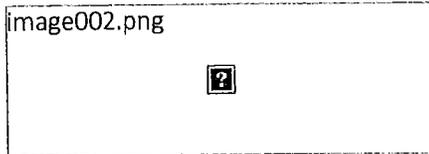
I am disappointed to receive this email from you. I disagree with your assessment that our methodology is inconsistent with the engagement. I request you immediately specifically identify where our methodology is inconsistent with the terms of the engagement. We will not cease work, and will not accept your email as notice of termination for your convenience, until such time as you can satisfy me that our work is not compliant with the engagement and that we are unable to cure any default. In case you do not recall the terms of the engagement, I have attached your signed copy of the engagement for your easy reference. I do draw your attention to the termination provisions within the engagement which specify that a termination for convenience carries with it obligations for all reasonable costs associated with a termination for convenience. Terrace Timber Ltd. has indicated they expect us to complete our work under the joint engagement and their intentions to honour their commitments therein.

Also for your convenience, I have attached our December 2022 invoice for works completed during the month. I also note that Skeena is in breach of the terms of our engagement and has not yet paid the November 2022 invoice. I have attached that invoice for your convenience so you can get it paid and cure Skeena’s default. I note that Skeena has been late in every payment.

Thanks,
Aaron

AARON SINCLAIR
Founder

250.961.3114 www.timbertracks.ca



From: Greg DeMille <Greg.Demille@skeenasawmills.com>
Date: Tuesday, January 3, 2023 at 3:06 PM
To: "Aaron Sinclair (TimberTracks)" <aaron@timbertracks.ca>, Mark Reiter <Mark.Reiter@skeenasawmills.com>, Tim Moser <Tim.Moser@skeenasawmills.com>, Tyler Power <Tyler.Power@skeenasawmills.com>, Walker Main <walker@mainlogging.com>, Dan Main <dan@mainlogging.com>
Cc: Greg Main <Greg@mainlogging.com>, Jeff Calvert <jeff@pnlconsulting.ca>
Subject: RE: EXT - Preliminary Rate Determination

Hi Aaron,

We have had an opportunity to complete an initial review of your preliminary rate determination dated December 21, 2022 which we understand remains subject to change. While we appreciate the work that you have put into it to date, we have serious concerns regarding the methodology you have applied which appears to be fundamentally inconsistent in many material respects with the framework established by ss. 26.01 and 26.02 of the *Timber Harvesting Contract and Subcontract Regulation* which expressly formed part of the terms of reference for your work.

We respectfully request that you immediately cease any further work on this matter while we complete our review of the preliminary report. If you are unable or unwilling to agree to this request, please consider this email written notice of termination of your retainer in this matter.

Regards,

Greg DeMille MSc., RPF | Chief Operating Officer | Skeena Sawmills | Skeena Bioenergy
 Phone +250 635 6336 Ext 1110 | Cell +604-803-7719 | greg.demille@skeenasawmills.com
 5330 Hwy 16W, Terrace BC V8G 0C6



From: Aaron Sinclair (TimberTracks) <aaron@timbertracks.ca>
Sent: December 22, 2022 12:41 PM
To: Mark Reiter <Mark.Reiter@skeenasawmills.com>; Tim Moser <Tim.Moser@skeenasawmills.com>; Tyler Power <Tyler.Power@skeenasawmills.com>; Walker Main <walker@mainlogging.com>; Dan Main <dan@mainlogging.com>
Cc: Greg Demille <Greg.Demille@skeenasawmills.com>; Greg Main <Greg@mainlogging.com>; Jeff Calvert <jeff@pnlconsulting.ca>
Subject: EXT - Preliminary Rate Determination

Gentlemen,

Please see attached preliminary report for the rate determination of blocks in dispute.

The cover letter indicates that this is a preliminary report and we intend to finalize shortly after receiving final details from Terrace Timber on the three final blocks.

As previously communicated, we have not assessed the trucking rate but have provided an updated hourly rate from our original model back in 2016.

We would be pleased to conduct individual or joint review session(s) in the new year to discuss our conclusions.

On behalf of Jeff and myself, all the best for the holiday season to you and your families!

Thanks,
 Aaron

AARON SINCLAIR
 Founder

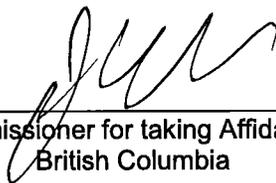
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image005.png

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This is **Exhibit "B"** referred to in **Affidavit #2** of **Walker Main**, affirmed before me at the City of Terrace, in the Province of British Columbia, this 25th day of March, 2024.



A Commissioner for taking Affidavits for
British Columbia



McLean & Armstrong LLP
Barristers & Solicitors

· 300-1497 Marine Drive
· West Vancouver, BC
· Canada V7T1B8
·
· tel 604.925.0672
· fax 604.925.8984
· www.mcleanarmstrong.com

June 13, 2023

VIA EMAIL

Industrial Forestry Service Ltd.
1595 Fifth Ave
Prince George B.C. V2L3L9

Attention: Jim Girvan, MBA RPF

Dear Sirs/Mesdames:

Re: Replaceable Contract (the "Contract") between Terrace Timber Ltd. ("Terrace Timber") and Skeena Sawmills Ltd. ("Skeena Sawmills") for Tree Farm License 41 ("TFL 41") Rate Dispute between Terrace Timber and Skeena Sawmills Ltd. (the "Rate Dispute") Engagement as an Expert

We confirm that McLean & Armstrong LLP, as counsel for Terrace Timber, wishes to retain you to provide an expert report for the purposes of an arbitration hearing between Terrace Timber and Skeena Sawmills with respect to the Rate Dispute for the Disputed Blocks (as defined at **Appendix "A"** to this letter). This letter serves to formalize your engagement, and to set out the requirements for the expert report as set out herein.

EXPERT REPORT

Please draft your report using the following outline.

A. Personal Information

Begin your report by setting out your legal name, business address and areas of expertise.

B. Qualifications, Employment and Education

Briefly describe your professional qualifications with emphasis on matters directly related to the opinion sought. Also, you should attach a detailed curriculum vitae as an appendix to the report.

If you have been accepted as an expert by a Judge or arbitrator in another proceeding, this should be noted in this part of your report.

Page 2 of 7

● **C. Instructions**

In this section of your report, include the following wording:

My instructions are set out in the letter from McLean & Armstrong LLP dated June 13, 2023, a copy of which is attached to this report.

Please attach this letter at the end of your report.

D. List of Documents Reviewed

Terrace Timber has provided you with documentation related to the attributes of each of the Disputed Blocks, including the following:

1. The “Term Sheet” issued by Skeena for each of the Disputed Blocks. Please note that except where specifically noted, the Term Sheet (and its enclosures, where applicable) for a given Disputed Block represents the entirety of the “Work specifications”¹ that Skeena Sawmills provided to Terrace Timber
2. The actual volume of timber harvested;
3. The actual costs incurred by Terrace Timber in completing the timber harvesting services; and
4. The operations of Terrace Timber in completing the timber harvesting services.

Terrace Timber has also provided you with the following information² regarding its fixed and variable costs during the time period during which timber harvesting services were completed for the Disputed Blocks:

1. Terrace Timber’s **administrative and overhead costs**;
2. Terrace Timber’s **cost of extras**;
3. Terrace Timber’s **equipment costs**; and
4. Terrace Timber’s **labour costs**.

¹ *Timber Harvesting Contract and Subcontract Regulation* (B.C. Reg. 22/96) (the “Regulation”), section 19.1.

² All bolded terms as defined at section 24.01 of the Regulation.

McLean & Armstrong LLP

Page 3 of 7

- If there are additional documents that you believe will be necessary or helpful to your investigation, please enquire, and we will attempt to determine if they exist, and provide them to you.

You are welcome to review any relevant documents that you consider necessary to form your opinions. In your report, you should list every document you have relied on to prepare your expert report whether provided by us or by Terrace Timber directly.

All documents provided to you are strictly for the purpose of providing your advice and opinions and are governed by a requirement of strict confidentiality. They are not to be disclosed to any other person or party.

E. List of Facts and Assumptions

It may be necessary for you to make assumptions in order to form your opinions. In such case, any assumptions that you make should be identified and listed in this section of your report.

In addition, we may ask you to make certain assumptions.

F. Opinion Sought

The following opinions are sought from you:

1. Please consider the attributes of each of the Disputed Blocks as disclosed by the applicable Term Sheet, and the effect of those attributes upon Terrace Timber's costs and productivity in completing timber harvesting services, i.e. would a particular attribute tend to increase or decrease costs and productivity in completing the timber harvesting services;
2. If in your opinion further information beyond that included with the applicable Term Sheet would be required by a contractor to provide a rate for the applicable work, please specify what that information is, and why it would be required.
3. In considering the logging performed Terrace Timber in the Disputed Blocks, please identify any circumstances which in your opinion would have impacted costs and productivities achieved by Terrace Timber, including but not limited to the following:
 - a. Any differences between the "Work specifications" provided on the applicable Term Sheet, and the actual volumes, start and finish date, etc.
 - b. Any other circumstances which you conclude had an impact on costs and productivities.

McLean & Armstrong LLP

Page 4 of 7

4. With respect to any circumstances which you identify in response to the foregoing question, please explain how and why each would impact cost or productivity.
5. In the circumstances in which Terrace Timber performed the timber harvesting services for Skeena on the Disputed Blocks, in your opinion was Terrace Timber reasonably efficient in terms of costs and productivity or not? Please explain why.

If, in providing your requested opinions, you utilize or rely upon any particular methodologies or concepts, please describe these in your report and explain why you utilized or relied upon those particular methodologies or concepts.

G. Opinion

We suggest that you set out questions in your report and set out your opinion following each question. Please organize your answers based on what you believe results in the most orderly analysis.

In preparing this part of your report, you should observe the following guidelines:

- a. You may only express an opinion on matters within your area of expertise. If our questions require you to comment on matters outside your field of expertise, please advise us immediately so that we can consider whether to retain additional expert assistance.
- b. Your report must be objective, and you should not become an advocate for the client. While we may identify issues and make suggestions regarding the organization and format of your report, you alone must determine the substance of your opinion.
- c. You should start your answer to each question by setting out your conclusion in response to that question, followed by the reasons for your conclusion.
- d. You should not express an opinion on legal or factual issues that are for the Arbitrator to decide. You should therefore not express an opinion on the credibility of any person or document. You should also not comment on whether any party is liable or has breached a legal duty.
- e. Your report should describe any research, investigations and tests that led you to form your opinions.
- f. If your investigation or conclusion is based upon findings or theories generally recognized in your area of expertise, you should provide reference to those materials.
- g. If there is a range of opinions held by other experts on any of the question we have posed, you should provide a summary of the range and the reasons for your own opinion within that range.

McLean & Armstrong LLP

Page 5 of 7

- h. Your report should be set out in such a manner that it can “stand on its own”. It should be written in such a way that little, if any, additional explanation outside of the report is required to make it understandable to a non-specialist. The report should not require additional explanation by you, save perhaps the technical terms.

H. Certification

Finally, you should include a sentence that states:

I am the person primarily responsible for the opinions contained in this report.

Therefore, you must be thoroughly familiar with all the contents of the report, and with respect to any portion of which you have received assistance by colleagues, employees, or others, it is essential that you have supervised all of their work and adopt it.

Your report must include a statement to the following effect:

I am aware of my duty to assist the Arbitrator, remain impartial and unbiased and not be an advocate for any party. I have prepared my report in conformity with this duty. If I am called on to give oral or written testimony, I will give that testimony in conformity with this duty.

This statement should be followed by your signature.

It is essential not only that you insert this statement into your report, but that you understand the reason for its inclusion. While you are retained by one party to this lawsuit, your professional duty is to provide impartial advice and your honestly held opinions. There is nothing improper in considering arguments and suggestions from the client or from counsel, but you must not adopt any such suggestions or include anything in your report unless it reflects your honestly held opinion.

As well, if you become aware of facts that cause you to change your opinion, you must advise us as soon as possible, and a supplementary opinion report may be required.

I. Confidentiality

This matter is confidential. Please do not discuss this matter, except with our firm and Terrace Timber. The report that you produce should be addressed to McLean & Armstrong LLP.

There is nothing in this agreement that prevents you from corresponding in a general way with the adverse parties or their counsel on unrelated matters. However, we would suggest that you refrain from doing so unless it is absolutely necessary. Because you have been retained by McLean & Armstrong in this dispute, all of your dealings with McLean & Armstrong are privileged and strictly confidential, and you are not at

McLean & Armstrong LLP

Page 6 of 7

- liberty to communicate with any other party or person about those dealings or the services you are providing.

J. Summary

Please provide us with two signed originals of your report and an electronic version. Your notes, working papers, draft reports and correspondence will be subject to disclosure after your report has been delivered to the opposing party.

Thank you for agreeing to provide your expertise. If you have any questions with respect to the nature and scope of your retainer or the report, please contact us at your earliest convenience.

Yours truly,

McLean & Armstrong LLP

Per:



Chris Moore
chrismoore@mcleanarmstrong.com

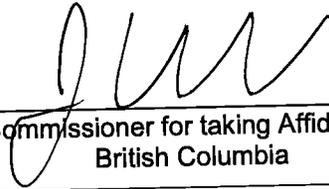
CM/VA

APPENDIX "A" - DISPUTED BLOCKS

Cutting Permit	Block
10H	21-100-6 A/B
9A	30-1000-14
10H	5-5-16
1N	6-0-2
5RG	6-20-5
5RG	6-30-3
4JL	KIT003, unit A
4JL	KIT005
4JP	KIT007 unit A/B
8A	30-2000-6
8A	30-2000-8
4JQ	KIT009A
4JP	KIT007C
4JN	KIT002

(collectively the "Disputed Blocks")

This is **Exhibit "C"** referred to in **Affidavit #2** of **Walker Main**, affirmed before me at the City of Terrace, in the Province of British Columbia, this 25th day of March, 2024.



A Commissioner for taking Affidavits for
British Columbia

**Terrace Timber
2023 Skeena Sawmills Rate Arbitration**

Expert Witness Opinion

**Prepared for
McLean & Armstrong LLP**

July 2023

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Terrace Timber - 2023 Skeena Sawmills Rate Arbitration

Expert Witness Opinion

1 Personal Information: James Girvan MBA RPF

My 44-year career in the BC forest industry includes work in forestry consulting, pulp and paper fibre management, commercial banking and as an industry advocate with the Truck Loggers Association (see Appendix 1 for short bio).

I currently work as an associate employee with Industrial Forestry Service Ltd of 1595 Fifth Ave, Prince George BC V2L3L9.

2 James Girvan MBA RPF: Qualifications, Employment and Education

I am recognized as an authority in timber supply, economic and statistical analysis, and forecasting as it relates to the forest sector. I have a degree in forestry and an MBA, and I combine my extensive forestry field experience with financial and analytical training to provide support in the areas of timber supply, fibre flow modeling and data analysis, forest industry forecasting, statistical analysis, and forest policy.

My forestry field experience includes many years doing timber cruising, harvest block engineering (roads, landing, and boundary location), main haul road location, survey, design and construction supervision, silviculture surveys, timber reconnaissance and forest inventory. These activities were undertaken across northern BC.

In 2020 I was awarded the Distinguished Forester Award by the Forest Professionals BC (FPBC).

Pertinent to this engagement, the following is a brief list of notable experience:

- Field location of numerous harvest blocks, including boundaries, in-block roads and landings (ground-based and cable operations) across northern BC.
- Numerous engagements to field locate main haul roads with subsequent survey design and field location of final centerline and right of way and on occasion, grade staking and construction supervision.
- Managed development of new sources of wood fibre for Catalyst Paper which included hiring and subsequent management of both logging and trucking contractors.
- TruckLoggers representative on the working committee tasked with revision of the Timber Harvesting Contract and Sub-Contract Regulation following introduction of the 2003 BC Forest Revitalization Act; and again, following the 2017 BC Government initiated Contractor Sustainability Review.
- Conducted a survey of logging contractors to determine the range of coastal logging phase costs and productivities in 2019 as part of development of Coastal Fibre Recovery Zones for BC Government.
- Member of the BC Forest Revitalization Trust Fund Advisory Board responsible for adjudicating fund claims (tied to rates for logging and road building).
- Lead negotiator for settlement of contractor claims (related to logging contract values and infrastructure) that arose following agreement of the Nisga'a Treaty.
- Numerous analyses of logging costs in support of various investment projects related to biomass power generation, pellet plants, and sawmill establishment.
- Valuation or peer review of valuations of more than four million cubic metres of replaceable forest tenures in BC, each of which required assessments of logging costs.
- Member of board of Directors at TMAR Industries in Campbell River BC where we design and manufacture steep slope logging equipment for sale domestically and to international markets.

- I acted as an expert witness in the arbitration undertaken in 2022 between Terrace Timber and Skeena Sawmills. This arbitration was settled prior to an arbitrator decision.

3 Instructions

My instructions are set out in a letter from McLean & Armstrong LLP dated June 13, 2023, a copy of which accompanies this report.

4 List of Documents Reviewed

I was provided with access to a “DropBox” containing data populated by Terrace Timber organized under the following headings:

- **Block Data**
 - Logging appraisal maps, cruise summaries, deflection maps, term sheets, pre-work summaries and copies of emails and related correspondence between Skeena and Terrace Timber, with all data organized by block.
- **Skeena Curtailments**
 - Various correspondence between Skeena and Terrace Timber detailing dates for scale closures, pulp curtailments, locations of pulp delivery, etc.
- **Skeena Sawmills Notices**
 - Various correspondence between Skeena and Terrace Timber and at times all Skeena contractors related to curtailments, allocation of incremental work, failure to perform notices and notice of default together with Terrace Timber responses.
- **SSM Harvest Schedule**
 - Various correspondence between Skeena and Terrace Timber related to annual harvest plans and harvest blocks being allocated to Terrace Timber.
- **SSM Info Maps Logging Plans**
 - Logging plans maps, deflection line analysis, appraisal maps and term sheets for a select group of blocks in dispute.
- **SSM Road Maintenance Notices emails**
 - Various correspondence between Terrace Timber and Skeena related to unpaid invoices for road maintenance completed by Terrace Timber.
- **SSM Term Sheets**
 - Term sheets for a select number of blocks in dispute.

Subsequent to access to this data, I requested the following incremental data from McLean & Armstrong:

Timber Cruise summary data for the following blocks:

- 5-5-16
- 6-20-5
- Kit 005
- Kit009A
- 30-100-14
- Kit 002
- Kit007 separated by sub-block A, B and C if available.
- 30-2000-6
- 30-2000-8

Block appraisal map for the following blocks:

- I have the appraisal map for Kit 007 (entire block) and the map for Kit 007A. I require a map showing Kit 007C.
- Kit 009A

Term sheet for the following blocks:

- Kit 002
- 30-1000-14
- 30-2000-6
- Kit 007C

McLean & Armstrong responded as follows:

- Terrace Timber did not receive cruise info for KIT 005 or 30-1000-14.
- 6-20-5 was issued on one term sheet with 6-30-3 and under the same cutting permit (41/5RG). There may be a different cruise compilation for it, but Terrace Timber doesn't have it so the cruise info for 6-30-3 is attached.
- All other requested data is provided.

I completed two days of fieldwork in development of this opinion between June 19 and June 22, 2023. During that time, I visited all 16 blocks or sub-blocks in dispute with representatives of Terrace Timber. At that time, the harvest had been completed on all blocks viewed except for Kit 007C and Kit 009A where harvesting was ongoing.

Subsequent to completion of the field work, I requested the following data from McLean & Armstrong:

- The scale data (i.e., volume harvested for which Terrace Timber was paid) for each block in dispute.
- Any background information that is available describing the employees of Terrace Timber (position held, year of experience, etc.).
- The financial information related to Terrace Timber's fixed and variable costs as indicated in my instructions.

All of this information was provided to me.

5 List of Facts and Assumptions

Table 1 lists the specific harvest blocks which have rates in dispute between the two parties as detailed by McLean & Armstrong in their instructions. For each block, the block attributes, as derived from the data provided, are shown. Assumptions made with respect to the data presented for each block are included in the notes to Table 1.

A query of the BC Government Harvest Billing System (HBS) database was done in early July (for volume entered to end June 2023) to confirm the harvest volume entered into the HBS for each block in dispute.¹ This data is shown in Table 2 together with the volume harvested and delivered by Terrace Timber to Skeena and the original cruise volume.

¹ HBS is the government database for all timber harvest in BC.

Table 1: Blocks in Rate Dispute

Block	Term Sheet		Area (ha)			Road		Distribution of Logging Type			Volume m ³	Vol/Ha. m ³ /ha	Paid Volume m ³	Piece Size		
	Start	End	Date of Term Sheet	Gross	Net	Ground	Cable	Metres	Area (ha)	Ground					Cable	ROW/WROW
1	30-2000-6	May 25, 2020	July 31, 2020	25.2	18.1	8.2	9.9	1,297	2.59	32%	39%	29%	10,211	564	6,812	no cruise data
2	30-2000-8	July 2, 2020	September 30, 2020	31.5	27.7	5.5	22.2	1,923	3.85	14%	58%	28%	15,341	554	7,638	no cruise data
3	21-100-6a	November 16, 2020	April 19, 2021	56.7	51.9	35.3	16.6	3,186	6.37	51%	24%	25%	26,795	515	14,155	1.94
4	30-1000-14	November 17, 2020	March 31, 2021	54.3	39.4	12.7	26.7	2,503	5.01	24%	51%	25%	18,778	477	13,762	no cruise data
5	21-100-6b	April 20, 2021	August 10, 2021	45.9	42.2	21.6	20.6	2,124	4.25	41%	39%	20%	21,730	515	11,581	1.94
6	5-5-16	June 1, 2021	July 22, 2021	27.4	17.9	17.9	0.0	0	0.00	100%	0%	0%	7,999	413	4,592	0.49
7	6-0-2	June 16, 2021	October 4, 2021	41.9	35.1	14.5	20.6	3,206	6.41	26%	37%	37%	19,415	553	16,009	0.76
8	6-20-5	October 28, 2021	June 1, 2022	4.4	3.8	0.0	3.8	361	0.72	0%	62%	38%	2,588	681	1,223	1.64
9	6-30-3	October 15, 2022	August 15, 2022	40.0	34.2	11.1	23.1	1,774	3.55	26%	54%	21%	22,465	657	10,849	1.64
10	Kit 007A	November 29, 2021	April 11, 2022	9.7	7.6	7.6	7.6	147	0.29	92%	0%	8%	4,068	535	3,799	1.19
11	Kit 007B	December 15, 2021	April 11, 2022	85.6	76.6	50.3	26.3	4,915	9.83	49%	26%	26%	41,534	542	21,451	1.19
12	Kit 003-a	March 25, 2022	June 17, 2022	35.3	29.8	19.1	10.7	1,121	2.24	54%	31%	15%	15,917	534	11,826	0.74
13	Kit 005	May 9, 2022	September 9, 2022	43.1	39.9	11.1	28.8	3,901	7.80	17%	44%	39%	21,753	545	19,326	no cruise data
14	Kit 007C	October 1, 2022	August 16, 2023	37.4	37.3	20.0	17.3	1,592	3.18	44%	38%	17%	19,979	536	13,314	1.19
15	Kit 002	November 11, 2022	December 2, 2022	5.8	5.3	0.6	4.7	320	0.32	10%	78%	12%	2,483	468	2,214	1.14
16	Kit 009A	December 1, 2022	April 1, 2024	127.5	106.5	77.0	29.5	5,638	11.28	57%	22%	21%	70,393	602	17,359	1.69
											Total Volume	320,789			175,910	

Notes: Block area as denoted on logging appraisal maps

Road length (metres) as noted on logging appraisal maps. Road length adjusted for field inspected actual build

Road area assumes a 20 metre right of way

Wide right of way (WROW) assumes average of 30 metres

Volume is as per cruise summary or as indicated on logging appraisal maps. Where sub block volume not available, total block volume prorated based upon net area

HBS volume as per query of provincial Harvest Billing System (HBS) harvest data database

Piece size as per cruise data when available. Where not available, average of available data assumed

Table 2: Harvest Data Summary by Block

Block	Cruise (m3)	HBS (m3)	Paid Volume (m3)	Cut to Cruise (%)
30-2000-6	10,211	5,798	6,812	57%
30-2000-8	15,341	7,676	7,638	50%
21-100-6A&B	48,465	26,294	25,736	54%
30-1000-14	18,778	12,010	13,762	64%
5-5-16	7,399	3,922	4,592	53%
6-0-2	19,415	16,404	16,009	84%
6-20-5	2,588	1,229	1,223	47%
6-30-3	22,465	11,299	10,849	50%
Kit 007A&B&C	65,581	39,173	38,564	Not Complete
Kit 003-A	15,917	11,224	11,826	71%
Kit 005	21,753	19,796	19,326	91%
Kit 002	2,483	2,287	2,214	92%
Kit 009A	70,393	11,226	17,359	Not Complete
Total	320,789	168,338	175,910	

Inconsistent data entry did not allow the complete separation of scaled volume by sub-block (for Blocks 21-100-6 and Kit 007). The total harvest volume reported by Terrace Timber or from within the HBS was prorated based on net area where a block was administratively separated into sub-blocks. This may not, however, reflect the actual volume attributable to each sub-block but in aggregate, reflects to total block volume.

The harvest volume, as reported in the HBS, appears slightly less than that reported by Terrace Timber as the volume they were paid for by Skeena. I do not have an opinion as to why this occurred as data entry protocols were not within the scope of this review.

On average, for the blocks where harvest has been completed, the scaled volume reflects 65% of the cruise volume, with a range between blocks of between 47% and 92%.

6 Opinion

Following are my perspectives on the factors which affect logging productivity and costs followed by a block-by-block opinion based on my data review and field assessment, while answering the following questions:

- What are the attributes of each block and how does each affect productivity and cost and why.
- What are the circumstances of each block which would have affected productivity and cost (work specifications vs actual volume, start and finish dates, etc).

Based on this information, I then provide an opinion as to whether or not Terrace Timber was operating in a manner that was reasonably efficient in the circumstances in terms of cost and productivity.

It should be noted that this list of factors reviewed that may affect productivity and costs of logging does not represent an exhaustive list. They are, however, the principal considerations amongst a myriad of

factors that could contribute to an assessment of productivity and are reflective of examples noted during the data review and fieldwork undertaken.

Every harvest block is different, and every harvest block will have its own circumstances, either natural or administrative, that could impact expected productivity and cost for each person and machine working to harvest timber.

6.1 Overview of Factors Affecting Logging Productivity and Cost

The following is an overview of some of the factors that have the potential to impact logging productivity and by extension logging costs. Many of these factors were observed in the blocks in dispute as shown in Section 6.2.

6.1.1 Distribution of Harvest Type

Each harvest block will have different areas designated for cable yarding (grapple yarder), ground-based yarding (hoe-chuck or skid) and road right-of-way (where no yarding is typically required). This information is typically shown on the logging appraisal maps. The area where each type of logging is expected to be performed is usually determined by those doing the logging layout. Areas are determined within the limits of machine capability and to ensure compliance with Worksafe rules and guidelines given the site conditions.²

The cost to fell, yard, process and load timber differs with each type of yarding with right-of-way logging typically being the lowest cost and cable yarding being the highest cost. This is because the productivity (i.e., cubic metres per machine hour) of the yarding (and to some degree the falling, processing and loading) is lowest with cable yarding and higher with ground-based yarding. The type of yarding also has an impact on the allocation of fixed costs per cubic metre of harvest since productivities differ between each type.

Generally speaking, for any given block, the greater the proportion of cable logging, the lower the daily productivity (when compared to ground-based systems) and the greater the cost. The greater the proportion of ground-based yarding or road right of way logging, the greater the productivity and the lower the cost.

6.1.1 Volume per Tree (Piece Size)

Volume per tree is one of the most significant variables used by a logger to assess costs generally since it will impact the productivity of many key cost phases such as falling, yarding, processing, and loading.

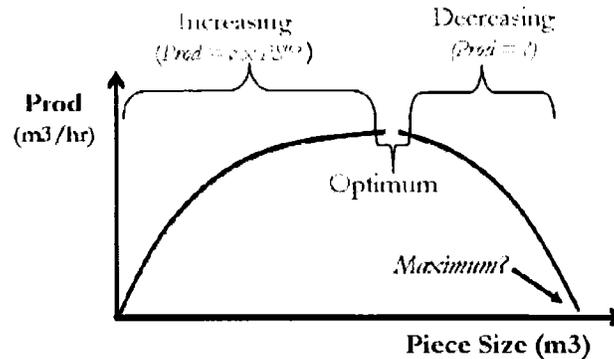
For example, when the trees are larger, it takes less time to yard a cubic metre of wood from a hillside, to process a log or to load logs onto a truck since more volume is represented by each log moved. Larger trees allow for increased productivity and lower costs, whereas small trees reduce productivity and increase cost, since several small trees may be required to equal the same volume as one large tree.

However, the relationship between tree size and productivity is not linear; since it may occasionally be possible to yard or load two (or more) small logs concurrently (i.e., felled trees are aligned to allow a grapple to pick them up together).

² Example: Ground-based yarding on slopes greater than 45% is not allowed without an approved safety plan.

In order to understand the impact that different volumes per tree (i.e., piece size) would have on productivity, the “piece size rule” provides reasonable guidance.³ While the research done to derive this relationship was done on felling machines only, it is equally applicable to yarding and loading machines.

Figure 1: Piece Size Law



The productivity of any specific phase of a log harvesting operation is typically optimized to the design capability of the machine employed to conduct that phase. As can be seen above, as the piece size becomes smaller, productivity of machines (and logging phases) declines and costs rise. The same is true when piece size exceeds the optimum design capability of the machine in question. In this case, productivity also declines and costs rise.

Piece size is provided in the cruise data provided for each harvest block and is based on the volume estimate for the block. Where the recovered volume is less than that estimated in the cruise, piece size can be affected.

6.1.2 Volume per Hectare

Volume per hectare will have an impact on productivity and cost of falling and yarding. When the trees are farther apart (i.e., lower volume per hectare for trees of a similar size) it takes longer for a faller or a mechanical harvester to move between trees. The opposite is true for more dense stands (i.e., higher volume per hectare for trees of a similar size).

The same can be said for yarding. For example, in higher volume per hectare stands, cable yarding settings (which requires movement of the back spar or the grapple yarder) are changed less often, and consequently more volume is recovered in each individual setting. More volume from each grapple setting and fewer moves of the cable setting will improve productivity and lower cost.

6.1.3 Block Engineering / In Block Road Construction / Availability

There are several ways in which the quality and completeness of in-block engineering⁴ can impact productivity and cost. The objective of in-block engineering is to locate roads, landings, and block boundaries in terrain that will allow the logging contractor to access all of the timber in a boundary with

³ https://www.researchgate.net/figure/Graph-showing-the-basic-relationship-between-piece-size-and-productivity-The-graph-has_fig1_29489227

⁴ Location of the block boundary, access roads and landings

the machines being used, to achieve an optimal yarding distance for the machines being used, to ensure appropriate deflection to all landings and to have enough room at each landing to process yarded wood.⁵

Examples where engineering may impact productivity and cost could include (but are not limited to):

- **Roads not complete when block assigned for harvest.** This could mean that the contractor does not have complete flexibility in assigning resources to various parts of the block. It may also mean having to avoid some areas of harvest while roads are completed by the road builder. Both examples would reduce productivity and increase costs.
- **Roads have not been completed as per the logging appraisal map.** In this scenario, either the contractor has to take the time to complete the road at their expense, or alternatively, they would have to adapt the harvest plan to suit the available roads. This could result in excessive yarding distances or lack of access to parts of the block. Both examples would reduce productivity and increase costs.
- **Landings are not built as indicated on the logging appraisal map.** Landings are identified during engineering in order to allow sufficient room to yard in and stack logs and then process and load them onto a truck. Where the landing is either too small (in cases where the terrain does not allow room) or not built at all, it reduces the productivity and increases the cost of the yarding phase since logs cannot be accumulated for processing and loading. Alternatively, the contractor has to take the time to complete the landing at their expense.
- **Deflection not appropriate for landing location.** While deflection lines are typically established by the engineering crew to confirm appropriate deflection where undulating terrain exists, at times, the terrain does not allow for appropriate deflection from each landing. In these cases, trees cannot be lifted high enough to ensure clearance over undulating terrain or rock ridges. In these cases, productivity is reduced, and costs are increased and at times, areas of the block cannot be accessed.

6.1.4 Phase Congestion

Phase congestion can occur within one logging phase (i.e., when fallers are working too closely together) but can also occur when different phases are operating too close together (i.e., machinery working too close to fallers or road builders working near yarders and processors).

Phase congestion is unacceptable and poses a significant risk to worker safety. When this has the potential to occur, productivity and costs of the harvest operation as a whole is reduced, as some phases are either delayed or require special attention to ensure safety.

Phase congestion is avoided by having harvest blocks developed far enough in advance to allow each phase to operate independently. Roads should be complete before falling occurs and falling should be complete (within designated areas of the block) before yarding and loading occurs.

Any situation that would require management of the individual phases because of congestion would reduce optimal productivity and increase costs.

⁵ Deflection defines the distance from the chord (a straight line from the top of the yarder to the back spar) being used to yard logs and the point at which the cable hangs due to payload weight. Adequate deflection and clearance are required for successful cable operations from both productivity and environmental perspectives.

6.1.5 Travel Time

The distance each harvest block is from town (in this case Terrace) will have a direct impact on the cost to harvest as well as an indirect impact on the productivity realized for each block. When a crew travels daily to the harvest block, transportation is provided by the contractor. Employees are paid from the time they enter the company-controlled property (in this case TFL 41) until they arrive at the work site while the crummy driver is paid starting from when they leave town.⁶

The farther the harvest block is from town, the higher the fixed cost to harvest the block. The length of time it takes to get to harvest block may also impact the number of non-travel hours the workers have to harvest and load timber in a day and hence the productivity of the operation generally.

Daily travel time will impact the cost per cubic metre harvested each day since it essentially non-productive time that the contractor must pay his employees for. The longer the travel time, the more expensive (and potentially less productive) harvesting will be and vice versa.

6.1.6 Harvested Volume

The total volume to be harvested in a block is a key determinant in the allocation of fixed costs and the cost to mobilize equipment to the harvest site. When the scaled volume differs significantly from the cruise volume (typically used when estimating costs and establishing rates before harvest) it will affect the final cost of harvest.⁷

When a block of timber is harvested, the road right-of-way is typically felled first to allow for in-block road and landing construction. Trees felled during this process, however, are often not completely recovered or are utilized as stabilization material during road construction. When this occurs, the costs incurred in felling and decking the right-of-way timber are not recovered as logs that should have gone across the scale. As a result, costs for the remaining timber scaled rise.

6.1.7 Weather and Season of Harvest

Site conditions dictate which season a stand of timber should be harvested in. This recommendation is typically made by the forest professional who prepares the site plan for the harvest block.

Where soil is wet, it is better to harvest the block in the winter when the ground is frozen. Where significant cable harvesting is anticipated, harvesting in snow free conditions is recommended for optimal productivity. Where these guidelines are not observed, productivity may be reduced, and costs may increase.

Seasonal weather fluctuations can also have a significant impact on the productivity and cost of many phases of logging in any season.

Excessive rain days (greater than 50mm (Bish Creek and Claque) and 70mm elsewhere, require the crew to stop working until daily rain amounts subside. When excessive rain occurs after the crew has already travelled to the harvest site, work must stop. When this occurs, productivity is reduced, and costs rise.

During the warmer summer months, the Canadian Forest Fire Danger Rating System generates a danger class report which provides estimated and forecast fire danger class values (1 to 5 with 5 being extreme)

⁶ A "crummy" is the term used to describe the vehicle used to transport logging workers to the logging site.

⁷ Timber cruising is the process of measuring the volume and quality of standing and down timber before it is harvested. It includes a statistical sampling process of tree measurements that are used to subsequently generate a summary of volume in the harvest block by species.

for 260 weather stations across the province.⁸ Depending on the fire danger class, industrial activities may be restricted and may require post-workday fire watches to be undertaken.⁹ When restrictions on when industrial activity can take place are required, it will reduce productivity and increase costs. Implementation of post-workday fire watches will also increase costs since employees are paid without realization of any harvest volume.

Snow can significantly impact the productivity and costs of harvesting with the following being examples:

- Snow may require additional resources (snowplows and manpower) to clear roadways to allow access for vehicles,
- Fallers need to ensure appropriate egress from trees being felled and this may require additional time to move or pack down snow to allow for safe falling,
- Felled trees are often buried in heavy snow making it difficult to find them when yarding. The result is that they have the potential to be missed.
- Access to harvest sites may be restricted or become too dangerous when heavy snow, once cleared, creates icy conditions.
- Trucks must travel slower on snow covered roads.
- Cable yarding productivity is reduced as it becomes more difficult to locate trees to be yarded.

6.1.8 Annual Harvest Plans

Annual harvest plans identify which blocks will be harvested, in which order and at what time of the year. When these plans are in place, (along with timely regulatory permitting of the harvest blocks), it allows a logging contractor to conceptualize which blocks will be harvested, when, and what the characteristics of the blocks are (volume, volume per hectare, cable vs ground-based logging, piece size, etc.). This understanding allows them to optimize the allocation of their resources, and where deficient, to arrange for incremental equipment and/or crews to match the harvest profile in order to ensure optimal productivity.

An even flow of work scheduled consistently through a year will facilitate the optimal use of resources (personnel and equipment) and typically leads to more productive operations.

Where annual harvest plans are not in place or plans are subject to frequent or short-notice changes to block allocation, there is a risk that the equipment allocated or manpower available (and their associated skill sets) may not match the profile of timber to be harvested. When this occurs, productivity will be reduced, and costs will increase.

For example, it is difficult to effectively plan a harvest of timber that has a large piece size and high proportion of cable ground, only to be moved by the client at the last minute to a block with small piece size and much less cable ground. This may require a change in the equipment to be utilized as well as the manpower needed. Where not possible on short notice, productivity may be reduced, and costs may increase.

⁸ <https://www2.gov.bc.ca/gov/content/safety/wildfire-status/prepare/weather-fire-danger/fire-danger>

⁹ <https://www2.gov.bc.ca/gov/content/safety/wildfire-status/prevention/for-industry-commercial-operators/high-risk-activities>

6.1.9 Mobilization and, Demobilization of Equipment

When logging, there is a cost associated with both the mobilization and subsequent de-mobilization of equipment when moving between harvest blocks (referred to as mob and demob).

This cost includes the manpower required to move equipment, vehicles used to low-bed the equipment and depending on the type of equipment (for example some grapple yarders), the manpower required to take apart and re-assemble the equipment when it is either too big, or too heavy, to travel on public roads.

Where there is planned and consistent availability of harvest blocks, the contractor will assume one mobilization per harvest block since it is assumed that the demobilization from that block will reflect the mobilization to the next block. When there are gaps in the scheduling of harvest blocks and equipment must be moved more than once and stored. Consequently, operating costs will rise.

Costs will also increase when mobilization has occurred but the harvest block allocation changes, or when the contractor is moved out of a harvest block prior to its completion and then back into a harvest block for completion at a later date.

6.1.10 Road Maintenance Requirements and Snow Removal

Logging contractors are typically required to maintain the roads within the block they are harvesting. This may include grading of the road (if required), maintenance of ditches and culverts, etc.

Where the quality of the road engineering results in the increased need for road maintenance (due to lack of culverts, steep side slopes, etc.), costs may increase.

The same can be said if snow plowing (typically not included in the rate for logging) is added as an incremental requirement. This incremental cost is almost impossible to predict for any harvest block.

6.1.11 Block Size (Low Volume per Block)

The total volume to be harvested within a given block will be a factor in the allocation of both fixed costs (overhead and administration) as well as mobilization on demobilization of equipment.

Where block volumes are low, harvest costs rise.

6.1.12 Administrative Constraints

The following circumstances are not cut block specific, but rather are requirements that could be imposed by the tenure holder and may have a negative impact on productivity and cost.

6.1.12.1 Scale Availability

When the log scale located at the point of delivery is not available to accept logs, it requires the logging contractor to either stop operations until the scale re-opens, or alternatively, the contractor must accumulate the logs on the harvest site until the scale re-opens. In these cases, repeated handling of the logs reduces productivity and adds cost.

6.1.12.2 Small Sorts

When log sorts are added that do not result in a significant number of loads per block, or when the logs suitable for the designated sort are scattered across the block, but not in sufficient

quantity in any one landing to make full loads, it typically requires that the logs are harvested and then stacked at roadside or on the landing until sufficient volume is accumulated to make a load.

An example of this issue is seen when small diameter timber within block is designated to a “chip and saw” sort.¹⁰ Where these smaller logs are infrequent in the block, they must be stacked for recovery onto a truck at a later time. When the log loader must return to multiple log piles to then load the logs on a truck, the extra time it takes reduces productivity and increases cost.

6.1.12.3 Splitting of Blocks Engineered as a Single Block

When harvest block engineering is done, there is generally an assumption that the block will be harvested as a single unit and roads and landings are located accordingly. At times, however, the tenure holder will administratively split blocks into two (i.e., Block A and Block B), with only one of the blocks being allocated to the contractor for completion at a time.

When this occurs, it can result in inefficiencies along the administrative boundary where the roads and landings designed for harvest of the timber are not available because of an administrative separation. Yarding of timber to roads not designed to facilitate an efficient harvest, or yarding of timber in one direction that should have been yarded in the opposite direction (because of the boundary) will cause productivity to decrease and costs to rise.

6.1.12.4 Term Sheet Time Constraints

Where insufficient time is allocated for completion of a harvest block given the circumstances identified previously, or where unforeseen circumstances result in delays in the completion of the harvest within the designated time frame, (especially when the contractor may be threatened with non-compliance if completion deadlines are not met) inefficiencies are often created that increase costs.

Circumstances that may result in delays in completion of harvest include Fire Danger Rating delays, snow delays, rain delays, COVID protocol delays (see below), etc.

Where completion of the harvest by a specified date is in doubt (and incremental time for completion is not provided), the contractor typically responds with actions that might include having to acquire additional short-term resources (manpower and/or equipment) that may come with a cost premium, allocation of more than 11 persons to a site, which in turn requires incremental safety resources (Level 3 First Aid attendant), or in winter seasons, having to plow snow rather than waiting for a periodic seasonal melt. In each case, productivity may be reduced, and costs will rise.

6.1.12.5 COVID

The COVID-19 pandemic in British Columbia was part of an ongoing worldwide pandemic of coronavirus disease 2019 (COVID-19), a novel infectious disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

A public health emergency was declared by the province of BC on March 17, 2020. At that time, and in the ensuing two years, several public health orders were put in place to slow the spread of the virus. These orders affected how companies could operate their businesses. Many of the

¹⁰ A timber product from trees intermediate in size between pulpwood and sawtimber where the outer layer of the log is typically sawn off to produce chips, and the rectangular inner section is sawn into lumber. Logs of this size are typically small in diameter.

orders imposed resulted in reduced productivity and increased costs to operate businesses, including logging.

Logging companies were required to develop plans to comply with the public health orders. The orders included restrictions on the number of people in vehicles and the requirement to shelter at home whenever symptoms arose; each of which caused disruptions to the normal workflow and led to reductions in productivity and increased costs.

Compliance with public health orders was not optional in BC.

6.2 Circumstances Affecting Productivity and Cost of Blocks in Dispute

The following summary of block specific circumstances that would have impacted logging productivity and associated logging costs for Terrace Timber were derived following a review of the documents provided to me and were supported by a field inspection of each block.

6.2.1 Block 30-2000-6: South Bish

The Term Sheet required harvest of this block between May 25, 2020, and July 31, 2020.

Covid protocols were in effect during the harvest of this block. This required extra pick-up truck(s) to transport employees. Some production days were lost as employees with symptoms were required to stay home.

When Terrace Timber started their harvest, the road builder was still working on-site completing in-block roads. This required Terrace Timber to keep the main road open, which slowed production as the grapple yarder had to be moved frequently to allow traffic to pass.

Terrace Timber completed right of way daylighting on weekends (which required payment of overtime) in order to keep to schedule.¹¹

The logging appraisal map indicated that the upper side of the block road was to be harvested using ground-based logging equipment. However, the terrain was too steep and rocky, so it was cable yarded and that reduced productivity and increased costs.

During harvest, oversized pulp log deliveries were restricted at times, causing Terrace Timber to process and stack logs (double handling), which reduced productivity and increased costs.

There was no cruise data provided to Terrace Timber prior to the start of harvest. The logging appraisal map indicated 10,211 cubic metres. Terrace Timber was paid for the delivery of 6,812 cubic metres or 67% of cruise.

Despite the restrictions on road use, COVID protocols in place, pulp log delivery restrictions and the need to harvest some of the cut block area using more expensive methods, Terrace Timber completed logging at the site, but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

¹¹ A term used to fell trees along the road right of way.

6.2.2 Block 30-2000-8: South Bish

The Term Sheet required that this cut block be harvested between July 2, 2020, and September 30, 2020.

Covid protocols were in effect during the harvest of this block. This required extra pick-up truck(s) to transport employees. Some production days were lost as employees with symptoms were required to stay home.

The road builder was working in-block when Terrace Timber started, which required Terrace Timber to work around that crew and equipment to avoid phase congestion (road builder working above Terrace Timber crew created a potential safety issue).

During the harvest period, there were multiple rain days of more than 50mm that resulted in stoppage of work, which reduced productivity and increased costs. The increased moisture on the marine clay and rock present on the site slowed productivity and increased costs.

An estimated 50% of the area within the cut block that was indicated to be harvested using ground-based systems was found to be too wet in some places and in other areas contained too many rocky ridges to efficiently utilize ground-based equipment. As a result, it was grappled-yarded, which reduced productivity and increased costs.

Spur 1 was not authorized for use when Terrace Timber started as the road builder (the prime contractor on the site) was still working to build it. Prior to starting, Terrace Timber reported a potential stability issue with Spur 1 to Skeena. Several small landslides occurred on Spur 1 that subsequently required repair by the road builder. This further delayed the harvesting progress by Terrace Timber. Eventually an entire section of that road failed. This caused some of the wood below it to be yarded down to BR2000 even though it had been felled to yard up to Spur 1 (reduced productivity and increased cost). Some felled wood was never recovered since Spur 1 was no longer usable (which increased the cost of the scaled volume).

During harvest, oversized pulp log deliveries were restricted at times, causing Terrace timber to process and stack logs (double handling) and some of the large pulp logs were never delivered, which reduced productivity and increased costs.

There was no cruise data provided by Terrace Timber prior to the start of harvest. The logging appraisal map indicated 15,341 cubic metres. Terrace Timber was paid for the delivery of 7,638 cubic metres or 50% of cruise.

Despite the restrictions on road use, COVID protocols in place, the need to harvest some of the area using more expensive methods, the need to yard timber felled for uphill yarding, downhill, the heavy rain which caused many delays and the road failure which did not allow recovery of all volume felled, Terrace Timber completed logging at the site (other than for felled timber not accessible from the failed road) but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.3 Block 21-100-6A and Block 21-100-6B: Claque

The Term Sheet required harvest of Block A between November 16, 2020, and April 19, 2021, and Block B between April 20, 2021, and August 10, 2021.

Covid protocols were in effect during the harvest of this block. This required extra pick-up truck(s) to transport employees. Some production days were lost as employees with symptoms were required to stay home.

Terrace Timber had proactively mobilized equipment close to the site based on previous logging plans and schedule provided but were subsequently directed to another block after the fact which increased mobilization costs.

Terrace Timber started harvesting in Block A as roads were being completed in Block B (presumably requiring the administrative separation of the two blocks).

In Block A, extreme snow reduced productivity and caused issues on a section of a steep (24%), favorable grade on the access road into the block. The access road eventually failed (May 2021) and Terrace Timber repaired it which increased costs.

Once roads were completed in Block B (on or about February 9, 2021), Terrace Timber requested combining both Block A and B back into a single block with the Term Sheet completion date for Block B applying to both parts (to improve efficiency of harvest for the combined blocks which would have avoided significant snow plowing and inefficient yarding of some timber in Block A). Skeena agreed to combine the blocks but insisted on maintaining the Block A completion date, even though Block B was scheduled via term sheets to start the day after Block A was completed. This required Terrace timber to work on some weekends (overtime costs) to complete harvest in Block A given the cumulative impact of the various issues noted above.

During harvest, oversized pulp log delivery was restricted at times (scales closed or restrictions on volume) and there were some days when all log delivery was stopped (scales closed) causing some wood to be handled twice (reduced productivity and increased cost).

At some point during the harvest of Block A, payments to Terrace Timber for snow plowing were switched by Skeena to be included in the block rate from an hourly rate which increased the unit costs for timber harvest.

To improve productivity, Terrace Timber utilized a feller-buncher and processor (mechanical felling and processing) on some ground and utilized a skidder to yard logs as some of the site was winter logged which improved productivity over what was to be hoe chucked.

The logging appraisal map indicated 48,465 cubic metres for the combined A and B blocks. Terrace Timber was paid for the delivery of 25,736 cubic metres or 53% of cruise.

Despite the COVID protocols in place, the need to mobilize equipment twice, the heavy snow conditions at the time of harvest in Block A, the switch to having snow plowing included in the block harvest rate, the imposition of an administrative separation of the blocks (which reduced productivity and increased costs in some parts of Block A), the refusal by Skeena to extend the Block A completion date once road building was completed and the blocks were combined, the scale and pulp delivery restrictions imposed, and the difficult haul road conditions, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.4 Block 30-1000-14: North Bish

The Term Sheet required that the harvest of this Block occur between November 17, 2020, and March 31, 2021.

Covid protocols were in effect during the harvest of this block. This required extra pick-up truck(s) to transport employees. Some production days were lost as employees with symptoms were required to stay home.

Access to this block required walking of equipment approximately 14 kilometers from the main road to the harvest block since lowbed traffic was not possible on the steep access road.¹² This significantly increased mobilization time and cost. A particularly steep section of this road prevented log hauling in the spring season as water flowing over the road occasionally froze and made conditions unsafe (reducing productivity and increasing costs).

During harvest, extreme snow was a constant issue. Terrace Timber warned Skeena of the risks of logging this block during this season noting the likelihood of reduced productivity and increased cost. Snow fall required incremental resources (manpower, a bulldozer and grader) to maintain road access (which was paid on an hourly basis). Yarding productivity was significantly reduced as the snow buried trees that were previously felled and snow was sluffing onto haul roads as trucks loaded and hauled timber (reducing their speed significantly and increasing costs). Faller productivity was also reduced as they struggled to create sufficient egress routes in the heavy snow, which increased costs.

Deflection was not ideal in places and Terrace Timber warned of the risks of not being able to yard all timber.

Skeena advised Terrace Timber to yard timber in some noted avalanche chutes first, presumably to prevent potential road failure at a later date. This, however, would have reduced Terrace Timber's progression of phased work beyond those locations as well as creating a safety hazard (by having fallers work beyond the yarder with no other means of access).

During harvest, pulp log delivery was restricted at times causing Terrace Timber to process and stack pulpwood (double handling) and some of the large pulp was never delivered which reduced productivity and increased costs.

The avalanche hazard (that was noted in logging plan maps) was acknowledged by Skeena who paid for an avalanche technician to monitor conditions while the Terrace Timber crew was working. Conditions declined to the point where safety concerns resulted in Terrace Timber being told to stop work and leave the site by the avalanche technician in early April 2021.

Terrace Timber was then directed to relog the area starting on May 20, 2021, after some volume was seen to have been left on the site after being directed to leave due to snow conditions. Terrace Timber warned of high costs to "re-log" because of low volumes of essentially pulp quality timber that remained on site (as a result of the snow covering the timber after falling).

Terrace Timber mobilized their equipment for a second time and completed the block on or about July 17, 2021. During this period, pulp deliveries were again curtailed at times causing decking and reloading of pulp logs (reduced productivity and increased costs),

¹² Walking is the term used when tracked equipment is moved on its own power rather than with a lowbed.

There was no cruise data provided by Terrace Timber prior to the start of harvest. The logging appraisal map indicated 18,778 cubic metres. Terrace Timber was paid for the delivery of 13,762 cubic metres or 73% of cruise.

Given the large area of cable logging required in this block, it would have been more appropriate to have scheduled the harvest in snow free conditions, in order to improve the productivity and cost (and safety) of harvest on the site.

Despite the COVID protocols in place, the heavy snow conditions at the time of harvest, the threat of avalanche, the need to remobilize equipment to recover low volumes of essentially pulp quality logs, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.5 Block 5-5-16: North Kitimat

The Term Sheet required harvest of this Block between June 1, 2021, and July 22, 2021. I note that this block was inserted into the logging plan in advance of a planned harvest in Block 6-0-2 on short notice.

This block was separated into A and B units based on location (i.e., they were separate blocks not engineered as a single block) where only Unit A was allocated for logging.

This was a ground-based block that was ideally suited to ground skidding in frozen winter conditions. However, at the time of harvest, the ground was very wet, and skidding would have caused significant soil disturbance. Alternatively, construction of many skid trails would have been very costly. As a result, the area above the road was hoe-chucked and the area below the road, which was much dryer, was ground skidded (greater productivity and lower costs than hoe-chucking).

Hoe-chucking of this block, however, was very slow (low productivity) in the wet terrain given the excessive number of turns required to move logs to the landing while at the same time avoiding designated wildlife tree patches.¹³

Traffic control was needed when falling trees in the area close to the main access road, which added costs.

The logging appraisal map indicated 7,399 cubic metres. Terrace Timber was paid for the delivery of 4,592 cubic metres or 62% of the cruise. Of note, the average piece size of the trees was also very small which in itself reduces yarding, processing and loading productivity and increased costs.

Given the site conditions, this block should ideally have been harvested in the winter months in order to improve productivity with the use of a skidder which would have reduced costs.

Despite wet site conditions of this block, the need to hoe-chuck excessive distances, the need for traffic control at times to fell timber, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.6 Block 6-0-2: North Hirsh

The Term Sheet required harvest of this Block between June 16, 2021, and October 4, 2021. I note that this block was to be completed after the short notice request to complete Block 5-5-16.

¹³ A cycle where the loader picks up a tree and forwards it towards the landing.

This block had significant areas of short yarding distances in rocky broken terrain that required frequent moves of the yarder (which reduced productivity and increased cost) and slow yarding in general.

The average piece size of the trees in this block was also small, which reduced productivity and increased costs.

The small piece size did not allow for appropriate yarder tail holds and despite efforts by Terrace Timber, access for a mobile tail spar could not be achieved due to terrain in places. This resulted in some areas not being harvested, and some timber that was felled was not recovered (which increased costs on a per cubic metre basis).

The logging appraisal map indicated 19,415 cubic metres. Terrace Timber was paid for the delivery of 16,009 cubic metres or 82% of cruise.

Despite circumstance seen in this block including the need to yard short distances over rocky terrain that required frequent repositioning of the yarder and the lack of suitable tail holds, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.7 Block 6-20-5: North Nabeelah (Humphries Creek)

The Term Sheet required harvest of this Block between October 28, 2021, and June 1, 2022.

Terrace Timber noted prior to harvest that the road appeared to be built between 20-30 metres below the centerline ribbon location and that in this location, efficient yarding of all timber to the north-east of the road would not be possible. It is my understanding that while the issue was reviewed with Skeena, no changes to the block boundary or road construction location were made by Skeena who directed Terrace Timber to log the block as presented.

Given that all of the timber within the boundary was not accessible from the road as built, Terrace Timber undertook to hoe-chuck the entire block rather than to utilize the more expensive grapple yarder, demonstrating Terrace Timber's desire to be efficient and reduce costs.

This was a small volume block (noting that small volumes result in higher unit costs). The block was logged in the winter and Terrace Timber was directed to undertake snow removal as part of the block rate. The haul road leading to the block was steep and not suitable for winter hauling.

Excessive snow resulted in safety issues and harvest was stopped and resumed in the spring of 2022 in snow free conditions (demobilized and mobilized equipment twice).

The logging appraisal map indicated 2,588 cubic metres. Terrace Timber was paid for the delivery of 1,223 cubic metres or 48% of cruise.

Despite the conditions seen in this block including the incorrect road location and excessive snow, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.8 Block 6-30-3: North Nabeelah (Humphries Creek)

The Term Sheet required harvest of this Block between October 28, 2021, and August 15, 2022.

Harvest in this block started in November 2021 during periods of heavy snow. Due to the haul road's condition and despite snowplowing efforts, truck drivers refused to haul logs on this road and harvesting was stopped until spring (required demobilization and a second remobilization in spring).

Landings were not constructed as indicated on the logging appraisal map. There was no landing at the end of Spur 1 and the small area built at the end of Stub 1 was insufficient to allow continuous yarding as there was no room to process and load logs. In addition, a large area to the east of Stub 1 could not be yarded given the deflection (which resulted in felled volume with no cost recovery). Generally speaking, the yarding was made less efficient (higher cost) because of the road construction done. Areas identified for hoe-chucking (ground-based logging) were at the limits of slope safety.

The logging appraisal map indicated 22,465 cubic metres. Terrace Timber was paid for the delivery of 10,849 cubic metres or 48% of cruise.

Despite the conditions seen in this block including the lack of suitable landings and poor deflection (in places) and excessive snow, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.9 Block Kit007A: Upper Kitimat

The Term Sheet required harvesting of this Block between November 29, 2021, and April 11, 2022.

This block was a stand-alone section of the larger Kit 007 which was administratively split into Blocks A, B and C.

This block was logged in March 2021 and required a road management plan when falling trees adjacent to the main road (which increased cost).

The logging appraisal map did not indicate a specific cruise volume for this block, but it was estimated to be 4,068 cubic metres based on the total cruise volume for Kit 007 and a prorate of volume based upon net area. Terrace Timber was paid for the delivery of 3,799 cubic metres or 94% of estimated cruise volume.

Terrace Timber completed logging at the site but would have incurred some increased costs.

6.2.10 Block Kit 007B: Upper Kitimat

The Term Sheet required harvesting of this Block between December 15, 2021, and April 11, 2022.

This block was a section of the larger Kit 007, which was administratively split into Blocks A, B and C.

This was a winter logged block and Terrace Timber was directed to undertake snow plowing as part of the block rate (increased costs).

At the entrance of the block, it was determined that Spur 311 was not usable for hauling purposes as built. Terrace Timber advised Skeena of the issue and they took several weeks to provide a decision on how to proceed. This tied up loaders that could have been used for other work (reducing productivity and increasing costs). The final decision was to forward (hoe-chuck) already processed logs to the bottom of

the unusable road and load them from there (which reduced productivity because of the required double handling of logs and increased costs).

Several landings that were indicated on the logging appraisal map were not built (road construction simply ended on some spurs). This created crowded conditions when yarding (i.e., there was no room to swing the yarder to drop trees so that the loader could process them into log lengths and accumulate for loading onto a truck). This lack of room reduced productivity and increased costs.

There were some deflection issues in the block and one area was felled but could not be yarded (increased costs given some logs were not delivered).

This block also included a chip and saw sort that was required to be delivered in pure loads. This required stacking of candidate logs for reload at a later date. An estimated 400 pieces were loaded onto each chip and saw truck load from piles of 6-10 logs decked at roadside. This reduced loading productivity and increased costs.

The logging appraisal map did not indicate a specific cruise volume for this block, but it was estimated to be 41,534 cubic metres based on the total cruise volume for Kit 007 and a prorate of volume based upon net area. Terrace Timber was paid for the delivery of 21,451 cubic metres or 52% of estimated cruise volume.

Despite the issues identified within this block including missing landings and poor deflection (in places), roads built that were not suitable for log hauling, snow and the need to load chip and saw logs separately, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.11 Block Kit 003A: Upper Kitimat

The Term Sheet required harvest of this Block between March 25, 2022, and June 17, 2022.

This block was a section of the larger Kit 003 which was administratively split into Blocks A and B. Block B had not been logged as of the date of field viewing.

The cruise for Kitt 003 indicated a small average piece size, and Kit 003A appeared to have smaller wood than the timber observed above in Block Kit 003 B (which reduced productivity and increased costs).

An estimated 10-15% of the ground-based terrain required cable logging (increasing costs):

- Area to the east of Spur 1-1 had to be yarded through trees that were part of a Wildlife Tree Area requiring constant re-rigging of the grapple yarder which reduced productivity and increased costs.

Some landings were not built as indicated on the logging appraisal map:

- Spur 1-2 had no place to turn trucks as the landing was missing – Terrace Timber created area for trucks to turn which increased costs,
- Spur 1-3 was not built when logging started which delayed starting and reduced productivity and increased costs.

This block also required a chip and saw sort. Terrace Timber utilized a log truck with no trailer (that could access the block on the steep access road) and then walked the loader around the block collecting sufficient chip and saw logs to make the small loads (25 tonne) at the end of the harvest. Use of the small

log truck and walking the loader around the block to collect logs reduced productivity and increased costs.

The logging appraisal map did not indicate the volume in this administratively split block. It was estimated to be 15,917 cubic metres based on a prorate of the net area of the larger block. Terrace Timber was paid for the delivery of 11,826 cubic metres or 74% of cruise.

Despite the issues identified within this block including missing landings that Terrace Timber had to work around and/or create and the need to load chip and saw separately, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.12 Block Kit 005: Upper Kitimat

The Term Sheet required harvest of this Block was between May 9, 2022, and September 9, 2022.

This block had a small piece size (similar to Kit 003) which reduced productivity and increases costs, although there was no cruise data or deflection line analysis provided.

The majority of the block was cable yarded and there was a lot of yarding loss (small logs yarded that did not meet log specs) that reduced productivity and increased costs.

The logging appraisal map indicated 21,753 cubic metres. Terrace Timber was paid for the delivery of 19,326 cubic metres or 89% of cruise.

Despite the issues identified within this block including small piece size and heavy yarding loss, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.13 Block Kit 007C: Upper Kitimat

The Term Sheet required harvest of this Block between October 1, 2022, and August 16, 2023.

This block was a section of the larger Kit 007 which was administratively split into Blocks A, B and C.

This block was only partially logged (the ground-based areas and road right of ways) at the time of viewing. Terrace Timber utilized a skidder in places where ground-based skidding was indicated which improved productivity and reduced costs over the use of traditional hoe-chucking.

Mobilization and demobilization occurred twice in this block, given direction from Skeena, which increased costs.

Spur 640 is steep with no level landing locations which will require chunking of the yarder as well as returning to spur 313 in block Kit007B to establish a back spar (which will take time and increase costs given that portion of the larger block has been completed).¹⁴

¹⁴ Chunking is when logs are placed under the tracks on one side of the yarder in order to level it on a slope prior to yarding. While this does allow for effective yarding, it reduces productivity and increases costs and could present a safety issue.

There is a 32% favorable switchback grade on the access road to this block which required Terrace Timber to pull many logging trucks with a loader in order to access the block. This reduced productivity and increased costs.

The logging appraisal map did not indicate the volume in this administratively split block. It was estimated to be 19,979 cubic metres based on a prorate of the net area of the larger block. Terrace Timber was paid for the delivery of 13,314 cubic metres to date as the block is still active.

Despite the issues identified within this block including the need to pull trucks up the access road with a loader and a steep access road that required yarding from the previously completed block, Terrace timber appeared to be operating efficiently in the circumstances with some of the timber in this block having yet to be harvested. However, because of the circumstances, reductions in productivity and increased costs over optimal conditions will occur.

6.2.14 Block Kit 002: Upper Kitimat

The Term Sheet required harvest of this Block between November 11, 2022, and December 2, 2022.

Terrace Timber received the term sheet for this block the day before harvesting was to commence giving little time to schedule appropriate resources.

This was a relatively small block with low total volume that was a 100% grapple yarding setting (approximately half of what is considered the minimum to support cost effective grapple yarding). Small volume blocks yield high costs for mob and demob which for this block was significant since the crew had to facilitate a two-piece move of the grapple yarder from the previous site, assemble the yarder on the main road and then walk it up the steep access road only to recover a small volume.

On arrival at the site, Terrace Timber had to repair a slide on the access road (increased costs).

When Terrace Timber started, Spur 50-4 was only half built in length. This required yarding of some timber up to a previously built road in an old block. Given that the old block did not have suitable tail holds, a mobile back spar anchor machine was required (which increased costs) and to get it into place, additional back spar trails were required (increased cost). Some timber was lost during yarding as the upper road was not wide enough to yard process and load (reduced scale volume and increased unit costs).

There was heavy snow falling during the harvest of this block and Terrace Timber was required to do snow plowing of the access road and block road as part of the block rate (increased costs).

The logging appraisal map indicated 2,483 cubic metres. Terrace Timber was paid for the delivery of 2,214 cubic metres or 89% of cruise.

Despite the issues identified within this block, including the need for significant snow plowing, a small volume grapple setting, the road was not complete resulting in the need to utilize a mobile back spar to build access trails to allow yarding into an old block where the road was not suitable as a landing, Terrace Timber completed logging at the site but because of the circumstances, would have incurred reductions in productivity and increased costs over optimal conditions.

6.2.15 Block Kit 009A: Davies Creek

The Term Sheet requires harvest of this Block was between December 1, 2022, and April 1, 2024.

This block was only partially logged at the time of viewing.

Terrace Timber started harvesting in this block in December 2022. They were then directed to stop in early January and to restart operations in May 2023 (reducing production and increasing costs as equipment was remobilized).

Skeena then advised in May to “*not overdue it*” when harvesting this block advising that they need to save some of this block for winter harvest in 2023.¹⁵

The cruise for this block indicated a volume of 70,393 cubic metres. Terrace Timber was paid for the delivery of 17,359 cubic metres to date as the block is still active.

Terrace Timber appeared to be operating in a manner that was efficient in the circumstances with respect to productivity and cost in completion of the work to date within this block although because of the circumstances, will incur reductions in productivity and increased costs over optimal conditions.

7 Overall Conclusions

It is my opinion that virtually all issues that were identified by Terrace Timber in advance of logging that had the potential to affect productivity and cost that Skeena chose not to consider, or remedy, were confirmed once logging was complete and full view of the harvest block was possible. Many, if not all issues reduced productivity and increased costs. Examples include:

- Roads not complete when the block harvest started.
- Roads in the process of being built when the harvest started.
- Roads and/or landings were not built as shown on the harvest appraisal maps.
- Inadequate deflection and/or lack of tail holds to support grapple yarding.
- Concerns over snow loads on site.
- Concerns about small volumes associated with specific sorts (chip and saw).
- Concerns about scale closures and restrictions on pulp log deliveries.
- Administratively separated blocks with an engineering rationale that did not fully support the split.

The lack of consistent, forward looking logging plans from Skeena prevented Terrace Timber from fully optimizing their equipment and manpower resources in advance. An example included scheduling harvest in a stand with a large piece size (Kitt 007) only to be moved to a block with small piece size (Kit 003) on short notice.

These types of issues reduced productivity and increased costs.

It appears to me that Terrace Timber consistently tried to make recommendations to Skeena on how to improve productivity and reduce costs but received in return little to no acknowledgement or support from Skeena. Examples include:

¹⁵ This was interpreted to mean operate efficiently but do not deliver significant volume from this block.

- Not scheduling the harvest of small volume blocks (Kitt 002) concurrently with a larger volume block to improve fixed and mobilization cost allocation and productivity of equipment.
- Allowing entry into the second part of an administratively split block (21-100-6B) but not allowing for an extension of the Block A completion date (to be the same as Block B) in order to avoid excess snow plowing and to reduce redundant travel on in-block roads to recover volume.
- Allowing loading of small volumes of chip & saw logs together with sawlogs in order to avoid costly back tracking with a loader and to haul pure loads in smaller, less efficient trucks.
- Insistence on completing harvest by the term sheet completion date without regard for the weather or site conditions at the time.

The issue of responsibility for snow plowing and the related costs is difficult to assess on a block-by-block basis since Skeena changed the payment terms for Terrace Timber. My understanding is that Terrace Timber declined to provide this service (that was traditionally paid for on an hourly basis) to Skeena at some point, citing lack of payment from Skeena for previous work. Snow plowing was subsequently assigned to Terrace Timber as part of block road maintenance, to be paid for as part of the per cubic metre block rate. This change would result in an increase in unit costs for harvesting in any block where snow plowing was required.

As indicated above, snow plowing, when required, has the potential to significantly increase costs, although it is difficult to determine and comment on, other than to say it is generally excluded from the block rate within the industry.

When considering my duty to assist the arbitrator, remain impartial and unbiased, and to not be an advocate for any party, I am obligated to point out situations where the actions of Terrace Timber may have reduced the efficiency in the circumstances seen in each block in dispute, with respect to productivity and costs. However, since I was not present when harvesting was occurring, these types of opportunities cannot be commented upon directly other than to note that:

- Terrace Timber employs a very experienced crew of career loggers,
- Terrace Timber utilizes well maintained, late model equipment, similar to many coastal logging contractors, that in combination allows them the opportunity to be efficient when circumstances allow, and
- Terrace Timber demonstrated several times during my field review their efforts to improve efficiency and reduce costs, examples of which included:
 - Block 6-0-5: When it was determined that the road location as built did not support grapple yarding of the entire block due to the resultant deflection, Terrace Timber took the initiative to hoe chuck timber (ground-based yarding), rather than cable yarding the timber which reduced costs,
 - Block 21-100-6B: Terrace Timber utilized a higher productivity skidder rather than hoe-chucking to yard some of the timber from this block which reduced costs.
 - Kit 003A: Rather than having to handle some yarded timber twice when a landing was not built at the end of a spur road sufficient in size to allow log trucks to turn around, Terrace Timber undertook to widen the end of the spur to create enough room to turn trucks around and efficiently allow loading of logs.

My opinion is that certain circumstances seen over the course of my review would seem to indicate that Skeena was actively trying to prevent Terrace Timber from working in an efficient and cost-effective manner, given the circumstances, and to create situations where Terrace Timber was at risk of material default on their logging contract. Examples include:

- The agreement to re-amalgamate blocks 21-100- 6A and 6B once the roads were completed in Block 6B (as requested by Terrace Timber), but not applying the Block B completion date to the amalgamated blocks. In doing so, the flow of timber would have been similar, and it would have significantly improved productivity (and reduced costs) as well as having reduced the costs of snow plowing in Block A. This is in light of the fact that Block B was scheduled, as seen on the term sheets, to begin harvest the very next day after completion of harvest in Block A. Rather than grant the request and allow for reduced costs, Skeena issued a default of contract notice with respect to completion of harvest in Block A requiring Terrace Timber to spend even more resources (and cost) to remedy the notice.
- The Term Sheet for Block 6-0-2 was issued on May 19, 2021, with a start date of June 16, 2021, and a completion date of October 4, 2021. Terrace Timber began mobilizing its crew to undertake this work. Two days later (May 21, 2021), Skeena issued the Term Sheet for Block 5-5-16 with a start date of June 1, 2021, and a completion date of July 22, 2021. Note that the harvest dates for these blocks overlapped. Terrace Timber requested that the completion date for Block 6-0-2 be extended if Skeena wanted block 5-5-16 completed first (which they did) as the same crew was to be harvesting both blocks. Skeena agreed verbally to this request and Terrace Timber completed the harvest of 5-5-16 on time. At a later date, Skeena refused to revise the completion date in the term sheet sufficiently for Block 6-0-2 and rather, issued a default of contract notice when Terrace Timber did not complete the harvest in that block on time. Terrace Timber did, however, complete the harvest within the allowed 20 days after receipt of a notice of default.

These examples of a lack of collaboration by Skeena to support the work assigned to Terrace Timber resulted in lower productivity and higher costs, contrary to the objectives of both parties.

In summary:

- In every block reviewed in the field, Terrace Timber did what they were directed to do in the circumstances.
- Wherever the work as directed by Skeena had the potential to reduce productivity and increase costs, Terrace Timber advised Skeena in advance and provided recommendations on how to improve productivity and reduce costs. Where Skeena did not acknowledge or take steps to rectify the situation, Terrace Timber did what they were directed to do by Skeena.

My opinion is that Terrace Timber operated in a manner that was reasonably efficient in terms of cost and productivity given the circumstances reviewed on a block-by-block basis.

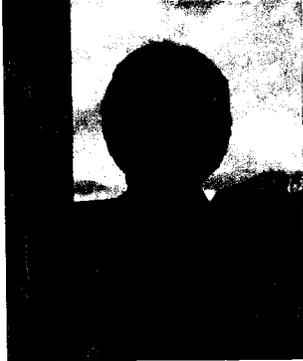
I am aware of my duty to assist the Arbitrator, remain impartial and unbiased and not be an advocate for any party. I have prepared my report in conformity with this duty. If I am called on to give oral or written testimony, I will give that testimony in conformity with this duty.

8 Certification

I am the person primarily responsible for the opinions contained in this report.

James Girvan, MBA, RPF

Appendix 1: Biography: James (Jim) GIRVAN MBA RPF



Jim's 44-year career includes work in forestry consulting, pulp and paper fibre management, commercial banking and as an industry advocate with the BC Truck Loggers Association.

Jim is recognized as an authority in timber supply, economic and statistical analysis and forecasting as it relates to the forest sector.

With a degree in forestry and an MBA, Jim combines his extensive field experience with financial and analytical training to provide support in the areas of timber supply, fibre flow modeling and analysis, industry forecasting, statistical analysis and forest policy.

EXPERIENCE:

Associate

Industrial Forestry Service Ltd., Prince George, BC – 2022 - present

Owner and President

MDT Management Decision and Technology Ltd., Ladysmith, BC – 2002 to present

Executive Director

The Truck Loggers Association, Vancouver, BC – 2003 to 2007

The Society of Consulting Foresters of BC (2013 to 2017)

Fibre Supply Business Planner

Manager - Fibre Supply New Source Development

Norske Canada Ltd., Vancouver, BC – 1997 to 2002

Account Manager, Forestry Services

Bank of Nova Scotia, Nanaimo, BC – 1996 to 1997

Forest Planning Manager / Forest Inventory Manager / Project Forester

Industrial Forestry Service Ltd., Prince George, BC – 1979 to 1995

EDUCATION:

Bachelor of Science, Forestry – 1979, University of Toronto, Faculty of Forestry, Toronto, ON

Master of Business Administration – 1996, University of British Columbia,

PROFESSIONAL ASSOCIATIONS:

Registered Professional Forester (R.P.F.) – Association of B.C. Forest Professionals

2020 Distinguished Forester Award for outstanding service to the forestry profession.

AFFILIATIONS:

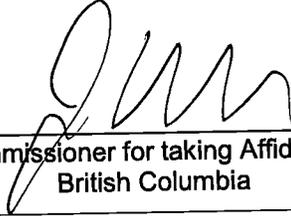
Director – T-MAR Industries Ltd

Past-Director – Pacific Logging Congress

Member – B.C. Forest Revitalization Trust Fund Advisory Board

Member – Forest Service Providers Protection Act Advisory Board

This is **Exhibit "D"** referred to in **Affidavit #2** of **Walker Main**, affirmed before me at the City of Terrace, in the Province of British Columbia, this 25th day of March, 2024.



A Commissioner for taking Affidavits for
British Columbia

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Skeena Sawmills Ltd. v. Terrace Timber Ltd.*,
2023 BCSC 550

Date: 20230411
Docket: S21679
Registry: Terrace

Between:

Skeena Sawmills Ltd.

Petitioner

And

Terrace Timber Ltd.

Respondent

Before: The Honourable Justice Chan

Reasons for Judgment

Counsel for the Petitioner:
(via videoconference)

M.S. Oulton

Counsel for the Respondent:
(via videoconference)

C.J. Moore

Place and Date of Trial/Hearing:

Prince George, B.C.
March 8, 2023

Place and Date of Judgment:

Terrace, B.C.
April 11, 2023

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Overview

[1] Skeena Sawmills Ltd. (“Skeena”) seeks a declaration under s. 21(a) of the *Forestry Service Providers Protection Act*, S.B.C. 2010, c. 16 [FSPPA] that two contractor charges and two liens registered by Terrace Timber Ltd. (“Terrace”) against Skeena are invalid. Skeena seeks an order discharging the charges and liens, arguing that Skeena is not in default of any payments owed to Terrace.

[2] Terrace seeks a declaration that the charges and liens are valid. Terrace argues the debts underlying the registrations of the charges and liens, associated to timber harvesting and snow removal work performed by Terrace, are in default.

Factual Background

[3] Skeena holds Tree Farm Licence 41 (“TFL 41”), an area-based tenure located to the south of Terrace, in an area near the city of Kitimat on the coast of British Columbia. TFL 41 grants Skeena the right to harvest an allowable annual cut of 128,000 cubic metres of timber from within the area.

[4] In 2015, Skeena and Terrace entered into a replaceable contract to harvest timber in the area (the “Contract”). In the industry, it is known as a “stump to dump” contract, where Terrace agreed to provide timber harvesting services of the allowable annual cut. This Contract was governed by the *Timber Harvesting Contract and Subcontract Regulation*, B.C. Reg. 22/96 [Regulation]. The Contract expired on December 31, 2019. However, under the terms of the *Regulation*, Skeena is obligated to offer to Terrace a replacement contract on substantially the same terms and conditions. The parties have not been able to agree on a new contract, and by operation of the *Regulation*, the Contract remains in force between the parties.

The Rate Dispute

[5] Disputes about logging rates arose under the Contract in the past several years. Part 15 of the Contract contained clauses for resolution of disputes, which included informal negotiations, mediation, and then arbitration. In the spring of 2022, the parties discussed the possibility of engaging a third party to assist in resolving

some rate disputes. These rate disputes involved determining the rate of pay for Terrace in logging 13 specific cutblocks (the "Disputed Blocks"). Rates for timber harvesting work are determined on a block by block basis, depending on the terrain and the type of equipment required to log.

Engaging TimberTrack Inc.

[6] In April 2022, the president of Skeena contacted Greg Main, the president of Terrace, to propose engaging TimberTrack Inc. ("TTI") as a third party to determine logging rates for the Disputed Blocks. Skeena had previous experience with Aaron Sinclair, the founder of TTI, and trusted his ability. By an email dated June 17, 2022, Greg DeMille, then General Manager of Skeena, advised Mr. Main that TTI would prepare a proposal to resolve the outstanding rates for the Disputed Blocks and develop a framework for rate determination moving forward. In that email, Mr. DeMille advised "Accompanying his proposal will be an agreement that both parties will sign that will make his rate determination binding on both parties".

[7] A series of emails followed between the parties. As Terrace relies on these emails to argue the agreement was complete between Skeena and Terrace by July 9, 2022, I will set out the contents of the pertinent emails in detail.

[8] On July 4, 2022, Mr. DeMille emailed Mr. Main, advising that Mr. DeMille is "okay with moving ahead with Phase 1, if we agree that the results are binding on both parties". Phase 1 is a reference to rate determination of the Disputed Blocks.

[9] On July 7, 2022, Mr. Main responded. Mr. Main indicated that he spoke with Mr. Sinclair, who is agreeable to incorporating the following terms of reference in a proposal for Phase 1, as "an alternative to arbitration to resolve log rates for approximately 120,000 m³ of already logged timber". Other terms of reference that Mr. Main stated he would like to see included are that TTI would follow section 26.01 and section 26.02 of the *Regulation*, which set out the rate test considerations for the industry, and that "Both Skeena and Terrace agree to be bound by TimberTrax determination".

[10] On July 9, 2022, Mr. DeMille responded with “I am agreeable to what you suggest”.

[11] On July 15, 2022, Mr. Sinclair from TTI emailed both Mr. DeMille and Mr. Main a “Professional Services Proposal for Log Rates”. The agreement (the “TimberTracks Agreement”) is six pages, and includes the following terms:

- “Skeena Sawmills Ltd. (‘Skeena’) and Terrace Timber Ltd. (‘Terrace’) are seeking an alternative to arbitration to resolve log rates for approximately 120,000 m³ of already logged timber performed by Terrace for Skeena”;
- “To the best of its ability, acting reasonably, TTI shall follow the considerations outlined in s. 26.01 and s. 26.02 of the *Regulation* when determining the final rates”;
- “TTI will use methods, as solely determined by TTI, to establish logging rates for work performed by Terrace for Skeena”;
- “It is understood by TTI that this agreement would be an alternative to arbitration and that Skeena and Terrace, by way of an agreement between them, have agreed that TTI’s determination of rates for the historical work is final and binding without recourse”;
- “Reliance on drafts – during the engagement we may provide oral comments, or written reports, letters, schedules or hard or soft copies of electronic work products in draft form. As these represent work in progress and not our final report, we do not assume any responsibility in respect of them. The final results of our work will be contained in our final written report”; and
- “Right to terminate Agreement – either party may terminate this Agreement by giving written notice which will have immediate effect”.

[12] The TimberTracks Agreement was signed by Skeena and Terrace on or about July 29, 2022.

[13] In the meantime, according to section 26(b) of the *Regulation*, if the parties cannot agree on a rate, the forest products owner is to pay a provisional rate to the contractor. Throughout this period, Skeena paid a provisional rate of \$40 per cubic metre for Disputed Blocks requiring the use of cable harvesting methods, and \$28.50 per cubic metre for Disputed Blocks requiring ground-based harvesting methods. The parties agree that this provisional rate has been paid to Terrace for all the Disputed Blocks.

[14] In November 2022, the parties agreed to refer to TTI for its rate determination three additional blocks where Terrace was expected to complete work at about the same time.

The December 22, 2022 Report of TTI

[15] On December 22, 2022, TTI sent the parties the following email:

Gentlemen,

Please see attached preliminary report for the rate determination of blocks in dispute.

The cover letter indicates that this is a preliminary report and we intend to finalize shortly after receiving final details from Terrace Timber on the three final blocks...

[16] Attached to the email is a nine-page report dated December 21, 2022. The first page is a cover letter and reads in part as follows:

Re: Preliminary Log Rate Determination

TimberTracks Inc. is pleased to provide Skeena Sawmills Ltd. and Terrace Timber Ltd. with our preliminary rate determination for 11 blocks in dispute with a total delivered volume of 144,604 cubic metres. This determination is preliminary as we are still waiting for some information from Terrace on three of the blocks just completed. Both Skeena and Terrace have requested that we do not delay production of the report and therefore our rate determination is preliminary until that information is received. We do not anticipate material variances in our preliminary rate determination however, it is prudent to review the information before the rate determination is finalized...

....Our preliminary rate determination is a rate of \$49.20 per cubic metre for the entire package of work...

[17] On page three at the bottom is written "This report is the preliminary report awaiting final information from Terrace on 6-20-3, 6-30-5 and KIT005." Those numbers represent the three additional blocks referred to TTI in November 2022.

Events of January 2023

[18] Mr. DeMille deposed that due to the holidays, he did not have an opportunity to thoroughly review this report until early January. Upon review, Mr. DeMille had concerns about the methodology used and sent an email to Mr. Sinclair on January 3, 2023, copied to Mr. Main. In the email, Mr. DeMille wrote in part the following:

We respectfully request that you immediately cease any further work on this matter while we complete our review of the preliminary report. If you are unable or unwilling to agree to this request, please consider this email written notice of termination of your retainer in this matter.

[19] Mr. Sinclair responded on the same date. He wrote in part:

I disagree with your assessment that our methodology is inconsistent with the engagement...We will not cease work, and will not accept your email as notice of termination for your convenience, until such time as you can satisfy me that our work is not compliant with the engagement and that we are unable to cure any default...Terrace Timber Ltd. has indicated they expect us to complete our work under the joint engagement.

[20] Mr. DeMille responded by email on January 4, 2023. Mr. DeMille wrote that as TTI has refused to cease work while Skeena reviewed the report, "...we hereby exercise our right to terminate the engagement, effective immediately."

[21] Mr. Sinclair responded on the same date. Mr. Sinclair stated that this was a termination by Skeena for convenience and not a default by TTI. He further wrote "We will engage with our legal counsel regarding implications for a termination of convenience by Skeena given the joint nature of the agreement and that Terrace has requested we complete the engagement."

[22] On January 5, 2023, Mr. Sinclair sent an email to Mr. DeMille, which read in part:

To conclude the project, I have attached our report dated December 21, 2022 which was sent to all parties on December 22, 2022. The report indicated our final rate determination subject to a final review of additional information not yet received. As the project is complete, no further information is to be provided or analysis to be done and is no longer preliminary. As per the terms of the engagement, our December 21, 2022 report final rate determination for the stump-to-truck logging services for 144,604 cubic metres is \$49.29 per cubic metre for a total of \$7,127,531.

[23] On January 6, 2023, Mr. Main sent an invoice to Mr. DeMille, representing the difference between the provisional rates already paid by Skeena and the rate determined by TTI. The total invoice was \$1,344,421.05.

[24] On January 9, 2023, Mr. DeMille responded to Mr. Main: "This invoice is not accepted and will not be processed. As noted in previous emails, we do not view the Timber Tracks report as finalized as we terminated this agreement because we had serious concerns regarding the methodology." Mr. DeMille requested a formal rate proposal from Terrace for eight specific blocks in accordance with the procedure set out in the *Regulation* for determination of rates where there is a dispute.

[25] On January 10, 2023, Terrace registered a lien and a contractor charge against Skeena in relation to this rate dispute.

The Snow Removal Dispute

[26] Terrace performs some snow removal pursuant to a contract with Skeena.

[27] Prior to February 10, 2021, Terrace carried out its road maintenance obligations within TFL 41 through a corporate affiliate, Main Logging Ltd. ("Main Logging"). Main Logging held a road construction and maintenance contract with Skeena dated December 4, 2019 (the "Main Logging Maintenance Contract"), which expired on December 31, 2020.

[28] Under the terms of the Main Logging Maintenance Contract, "Company's Rules" are defined in Schedule A as including Skeena's policies as communicated to Terrace. Section 2.10 of Schedule A states that Skeena may establish in the

“Company’s Rules” rights and remedies if Terrace fails to comply with a requirement in the “Company’s Rules”.

[29] In 2018 and 2019, Main Logging held a similar contract with Skeena, a “General Services Contract”, which outlined its road maintenance obligations.

[30] On March 9, 2018, Skeena wrote to all of its road maintenance contractors reminding them of the following policy (“Skeena’s Road Maintenance Policy”) with respect to road maintenance:

- All of Skeena’s road maintenance contractors were required to have a signed General Services Contract and a term sheet;
- Road maintenance work must be authorized by Skeena prior to the work commencing and, if not authorized, will not be paid; and
- All invoices conducted on an hourly basis must include daily time cards and invoices that do not include the required time cards will not be processed.

[31] On September 27, 2018, Skeena sent another notice reminding Main Logging of the contents of Skeena’s Road Maintenance Policy, including the requirement for pre-authorization for any snow plowing work and the requirement for time cards to support hourly wages.

[32] Between January 1, 2021 and February 10, 2021 – after the expiration of the Main Logging Maintenance Contract and before a new contract was signed – Terrace carried out road maintenance on the understanding that the terms of the Main Logging Maintenance Contract would continue to apply.

[33] On February 10, 2021, Skeena and Terrace entered into a new road construction and maintenance contract (the “New Road Maintenance Contract”). This contract expired on December 31, 2021 or on the completion of all work specified in the contract. This New Road Maintenance Contract contains similar terms incorporating the “Company’s Rules”.

[34] This New Road Maintenance Contract was signed after Skeena agreed to amend section 4.2(a) in Schedule B to remove the requirement for Skeena to pre-approve hours of snow removal. However, Schedule A still included the same definition of "Company's Rules" and Section 2.10 of Schedule A states that Skeena may establish in the "Company's Rules" rights and remedies if Terrace fails to comply with a requirement in the "Company's Rules".

[35] On February 12, 2021, Terrace issued an invoice to Skeena for \$68,469.14 for snow removal work done in January 2021.

[36] On March 3, 2021, Terrace issued an invoice to Skeena for \$49,058.69 for snow removal work done in February 2021.

[37] Between March 8 and 17, 2021, Skeena wrote to Terrace advising of discrepancies between the invoices and Skeena's Road Maintenance Policy. Specifically, Skeena disputed the invoices on the basis that the work was not pre-authorized and timecards were not provided to support hourly work.

[38] Skeena has issued partial payment in 2021 for the two snow removal invoices. The outstanding balance totals \$23,082.14. Terrace registered a lien and contractor charge against Skeena for this amount on January 9, 2023.

The Liens and Contractor Charges

[39] On January 9, 10, 11, and 26, 2023, Terrace registered five liens and five contractor charges against Skeena's interests with the Personal Property Security Registry.

[40] Two liens and two contractor charges are at issue in this proceeding:

Date of Registration	Lien	Contractor Charge	Dispute
January 9, 2023	291504P	291525P	Snow Removal Dispute
January 10, 2023	293789P	293803P	Rate Dispute

[41] Skeena seeks a declaration from the Court that these liens and associated contractor charges are invalid, as there was no debt payable or in default by Skeena to Terrace at the time they were registered.

Statutory Scheme for Registrations of Liens and Contractor Charges

[42] The statutory scheme is set out in the *FSPPA*:

2 (1) A contractor who has a contract for the provision of services with a forest products owner has a lien on the forest products owner's forest products, including forest products acquired by the forest products owner after the services are provided, securing an amount due...

(5) A contractor's lien may not be enforced before the forest products owner is in default in paying an amount payable.

...

4 (1) A contractor's lien may not be registered before the forest products owner is in default in paying an amount payable.

(2) Registration of a contractor's lien contrary to subsection (1) is not valid for the purposes of this Act.

...

6 (1) A contractor has a charge on all accounts due to a forest products owner securing an amount due...

(4) A contractors' charge may not be enforced before the forest products owner is in default in paying an amount payable.

...

8 (1) A contractor's charge may not be registered before the forest products owner is in default in paying the amount payable.

(2) Registration of a contractor's charge contrary to subsection (1) is not valid for the purposes of this Act.

...

21 On application to the court by a sheriff, lienholder, chargeholder, forest products owner or person with an interest in forest products affected by a lien or in accounts subject to a charge under this Act, the court may make an order, including a binding declaration of right and injunctive relief, doing one or more of the following:

(a) determining the validity of a claim to a lien of a contractor or a charge of a chargeholder;...

Issues

[43] The following are the issues to be determined in this petition:

1. Is the lien and contractor charge for the rate dispute valid?
 - a. Is there an amount due from Skeena to Terrace for the Disputed Blocks?
 - b. Is Skeena in default in paying Terrace an amount payable for the Disputed Blocks?
2. Is the lien and contractor charge for the snow removal dispute valid?
 - a. Is there an amount due from Skeena to Terrace for the two disputed snow removal invoices?
 - b. Is Skeena in default in paying Terrace an amount payable for the snow removal invoices?

Analysis of the Rate Dispute

[44] With respect to the rate dispute, in order to determine if there was an amount due from Skeena and if Skeena is in default of payment, the issue is whether the rate determination by TTI was binding on the parties.

Position of Skeena

[45] Skeena argues the rate determined by TTI was only a preliminary rate and not binding. Skeena terminated the TimberTracks Agreement before TTI declared the report final. As such, after the TimberTracks Agreement was terminated, Skeena was not bound by a final report issued after termination. As Skeena has paid provisional rates to Terrace for work completed on the Disputed Blocks, there are no further amounts owed by Skeena unless and until a higher rate has been determined. There is no debt payable and in default by Skeena to Terrace and the registrations of the lien and contractor charge are invalid.

Position of Terrace

[46] Terrace argues the TTI rate was a final rate, and binding on the parties when it was released on December 22, 2022. Terrace's position is the emails exchanged between the parties prior to the signing of the TimberTracks Agreement concluded a binding agreement that both Skeena and Terrace would be bound by the rate determined by TTI. Terrace argues the agreement between Skeena and Terrace is to be found in the email exchanges from June 17 to July 9, 2022. This exchange culminated in Mr. DeMille's email of July 9, 2022 expressing his agreement to be bound by TTI's determination. In those emails from June 17 to July 9, 2022, all the essential elements of a contract are found.

[47] Terrace also argues in substance that the report of December 22, 2022 was not a preliminary report but a final report. The further information TTI was awaiting was only in relation to the three additional blocks. The report was final at least in relation to the original eight blocks that TTI had been assessing. As such, Skeena is obliged to pay the extra amount determined by TTI. Terrace argues the liens and contractor charges are valid as Skeena is in default of the extra amount.

Analysis

[48] In my view, the clear language of the December 22, 2022 report cannot be ignored. This report was issued as a preliminary report. There can be no dispute that TTI characterized the December 22, 2022 report as a preliminary report. According to the TimberTracks Agreement, TTI can choose to issue draft written reports representing its work in progress. TTI's final results would be contained in its final written report. TTI would not assume responsibility for any drafts but only its final report. TTI clearly differentiates between any draft or preliminary reports and its final report.

[49] With respect to Terrace's argument that the agreement between Skeena, Terrace and TTI is to be found in the emails exchanged up to and including July 9, 2022, in my view, the signed TimberTracks Agreement must also be part of the agreement. While a contract can be found to exist in emails and does not necessarily

have to be a formal written document, in my view, where there is a formal written agreement, that ought to be considered as well. Terrace relies on *Vancouver Canucks Limited Partnership v. Canon Canada Inc.*, 2015 BCCA 144 for the proposition that a binding contract can be found in emails; however, in that decision, unlike this case, there was no signed formal written agreement.

[50] In this case, the TimberTracks Agreement contains the key points exchanged between Skeena and Terrace in the emails. There is no inconsistency between the TimberTracks Agreement and the emails. In my view, the TimberTracks Agreement is the formal written contract containing the intentions of the parties.

[51] In addition to providing for the possibility of draft reports issued at the discretion of TTI, the TimberTracks Agreement contains a wide scope for termination. The right to terminate the agreement is not restricted. A termination is effective immediately. Skeena exercised the right to terminate on January 4, 2023. Skeena was not bound by any report issued by TTI after that date.

[52] With respect to the argument of Terrace that the December 22, 2022 report was in substance a final report, in my view, that assertion cannot be sustained on the basis of the clear language used in the report. With respect to the evidence of Mr. Sinclair, who deposed that he was only awaiting information from Terrace on the three additional blocks, in my view, that evidence is irrelevant. The issue is whether Skeena was bound by TTI's final rate determination when it was released on January 5, 2023. In my view, Skeena was not bound as Skeena had terminated the TimberTracks Agreement.

[53] Skeena argues in the alternative that even if Skeena was bound by TTI's rate determination, the lien and contractor charge for the Disputed Blocks was registered too early, as Skeena was not in default on January 10, 2023. As I have concluded that Skeena was not bound by TTI's rate determination, there is no need to consider this alternative argument.

[54] As such, the lien and contractor charge in relation to the rate dispute that are registered are invalid, pursuant to ss. 4(1) and 8(1) of the *FSPPA*. There was no amount due and owing by Skeena to Terrace, and Skeena was not in default of payment in relation to the rate dispute.

Analysis of the Snow Removal Dispute

Position of Skeena

[55] The outstanding amount due under both snow removal invoices is disputed by Skeena for being in violation of its policy requiring pre-authorization and timecards. Skeena argues that under both the Main Logging Maintenance Contract and the New Road Maintenance Contract, the company's policies are incorporated as part of the contract pursuant to Schedule A. As such, Terrace was required to seek pre-approval for snow removal work and to submit time cards for hourly wages.

[56] Skeena asserts that until there has been a determination that the outstanding balance is valid, no debt is owed to Terrace and Skeena is not in default by not paying. Skeena argues that the registrations of the lien and contractor charge are invalid.

Position of Terrace

[57] Terrace argues that Skeena's policy on road maintenance is not part of either contract for road work that was in place in January and February 2021. Terrace's position is both contracts have terms that state that the contract is the entire agreement, and as such Skeena's Road Maintenance Policy is not part of the contract. Further, Terrace argues Skeena agreed to delete the requirement for pre-approval for hourly work for snow removal in s. 4.2(a) of Schedule B. Thus, Terrace argues there is no longer any requirement for pre-approval of snow removal work. Terrace argues the outstanding balance is in default, and the registrations of the lien and contractor charge are valid.

Analysis

[58] In my view, the road maintenance contracts must be read as a whole. Both of these contracts incorporate Skeena's policies in Schedule A, allowing Skeena access

to any rights and remedies contained in the company's policies. There is nothing inconsistent between Skeena's policy on road maintenance and the terms of the contract. While Terrace argues that Skeena agreed to delete from Schedule B a requirement for pre-approval for hourly work, that does not mean that the same requirement in a different part of the contract has also been deleted.

[59] As such, I find the outstanding balance owed on the snow removal invoices has not been shown to be in default. The outstanding balance continues to be disputed by Skeena, and that dispute needs to be determined to see if the amount is in fact due and owing. The registrations of the lien and contractor charge associated with the snow removal invoices are invalid pursuant to ss. 4(1) and 8(1) of the *FSPPA*.

Conclusion

[60] The Court declares under s. 21(a) of the *FSPPA* that the liens registered by Terrace against Skeena under registration numbers 291504P and 293789P are invalid. The Court orders these liens to be discharged.

[61] The Court declares under s. 21(a) of the *FSPPA* that the contractor charges registered by Terrace against Skeena under registration numbers 291525P and 293803P are invalid. The Court orders these contractor charges to be discharged.

[62] As Skeena has been successful, Skeena is awarded costs at Scale B for this proceeding.

"Chan J."