



**GITANYOW HEREDITARY CHIEFS**  
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**Gitanyow Huwilp Reinitiate Aboriginal Title Action for Entire Gitanyow Lax'yip (Territory)**

*Vancouver* - The Gitanyow Hereditary Chiefs Office, on behalf of the Gitanyow Huwilp, has revived its legal action seeking a declaration of Aboriginal title to its territory, located in the mid-Nass and portions of the Skeena watersheds in northwest British Columbia. The amended Notice of Claim was filed today in Vancouver by Gitanyow's legal counsel, and indicates the scope and nature of the case being advanced by the Hereditary Chiefs.

The pleadings, entitled *Malii v. Her Majesty the Queen*, were originally filed in 2003 as a protective writ following the *Delgamuukw* decision, which established that limitation dates applied to the filing of Aboriginal title claims. The case has not been active since, as the Gitanyow Hereditary Chiefs have been engaged in developing a Land Use Plan, Reconciliation Agreement, and actively attempting to resolve forestry related matters with the Province of British Columbia.

"Gitanyow has been engaged for many years in good faith with the Province to try and resolve our land and resources disputes, however these efforts have not achieved the level of sustainable and equitable management of our territory that is at the centre of our Ayookxw – which is our indigenous laws," said Chief Negotiator and President Malii (Glen Williams).

The Nisga'a Final Agreement has proven to be a significant challenge to reconciliation between the Province and Gitanyow, and to a lesser extent the federal Crown and Gitanyow. The Nass Wildlife Area, and Nass Area established through the Nisga'a treaty affects approximately 84% of the Gitanyow territory.

"Aboriginal title has a high standard of proof, of providing evidence for how the territory was established, defended and managed over time. We have this evidence that has been verified since contact by non-native explorers and traders, ethnographic experts, and legal experts. Unfortunately, the Nisga'a Treaty was signed with no requirement for such evidence, and granted extensive rights to the Gitanyow territory to another nation. This is an overall problem of the treaty process, and we hope our case will help advance the legal precedent in this regard," said Malii.

Gitanyow has been actively involved in the protection of their territory, through the signing of the Gitanyow Lax'yip Land Use Plan which includes the establishment of the Hanna Tintina Conservancy, and numerous other biodiversity areas. The Gitanyow Land Use Plan contributed to the re-routing of the Northwest Transmission Line, as well as two LNG pipelines, to avoid and minimize impact to sensitive fish and wildlife habitat.

"Gitanyow has always been supportive of sustainable development in our Lax'yip," said Malii. "A declaration of Aboriginal title will mean that Gitanyow will be in a better position to advance our vision of Wilp Sustainability throughout the Lax'yip."

## BACKGROUNDER

### The Gitanyow Huwilp

- The Gitanyow Hereditary Chiefs Office works on behalf of 8 individual Wilp (House group), which are each led by individual Hereditary Chiefs. The 8 Wilp are organized into 2 clans: Lax Gibuu (Wolf) and Lax Ganeda (Frog/Raven). The Wilps are: Malii, Gwaas Hla'am, Haitsimsxw, Wii Litsxw, Gamlakyeltxw, Watakhayetsxw, Luux Hon, and Gwinuu.
- Gitanyow continues to follow the hereditary system of management of the territory, despite the encroachment of the Indian Act band council system. The Gitanyow Hereditary Chiefs Office has been in existence for more than 20 years to help support and administer the objectives of the Gitanyow Hereditary Chiefs.
- The Gitanyow Huwilp is the collective of the 8 individual Wilp, and the population is approximately 1500. The Gitanyow Lax'yip (territory) consists of approximately 6,200 square kilometres in the mid-Nass watershed, and Kitwanga and Kispiox (Skeena) watersheds. (See attached map)
- Gitanyow has never surrendered, ceded or transferred title of its territory to any third party, other nation, or to the Crown.
- Gitanyow has codified its indigenous legal system in the *Gitanyow Constitution, 2009*. Evidence to support Gitanyow title has been well documented in the book *Tribal Boundaries in the Nass Watershed, 1998*, and other unpublished studies and reports.

### Aboriginal Title Case Law

- The only First Nation to achieve a declaration of Aboriginal title from the Canadian courts is the Tsilhqot'in in 2014.
- When Aboriginal title is established, the standard for consultation and consent for any proposed development is much higher. Following a declaration of title, Crown permits and authorizations may be reversed or rescinded.
- Aboriginal title lands have a unique status in Canada, differing significantly from fee simple or Crown lands. The Supreme Court in the *Tsilhqot'in* (2014) decision stated that: "The nature of Aboriginal title is that it confers on the group that holds it the exclusive right to decide how the land is used and the right to benefit from those uses, subject to the restriction that the uses must be consistent with the group nature of the interest and the enjoyment of the land by future generations." (Page 5)
- Further: "Aboriginal title...comes with an important restriction – it is collective title held not only for the present generation but for all succeeding generations. This means it cannot be alienated...or encumbered in ways that would prevent future generations of the group from using and enjoying it." (para 74)

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*A copy of the full amended Notice of Claim is available upon request.*