SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A18 PART 1

COMMUNITY SUMMARY:
MIKISEW CREE FIRST NATION

FINAL REPORT

Prepared for:
BC Hydro Power and Authority

<contact information removed>

Prepared by:
Fasken Martineau

<contact information removed>

January 2013

Mikisew Cree First Nation

Mikisew Cree First Nation (MCFN) has nine reserves in northeastern in Alberta in the vicinity of Fort Chipewyan.[1] Fort Chipewyan is situated on the north shore of Lake Athabasca, immediately outside the eastern boundary of Wood Buffalo National Park. It is accessible by air from Edmonton and Fort McMurray, and by winter road from Fort Smith (140 km to the north) or Fort McMurray (303 km to the south).[2] MCFN has a residential reserve in Fort Chipewyan (Dog Head No. 218) and a small reserve within Wood Buffalo National Park (Peace Point No. 222). The other reserves are: Allison Bay No. 219; Charles Lake No. 225; Collin Lake No. 223; Cornwall Lake No. 224; Devil's Gate No. 220; Old Fort No. 217; and, Sandy Point No. 221.[3]

MCFN owns and operates several business entities under an umbrella organization, the Mikisew Group of Companies. The flagship business is Mikisew Energy Services, which provides maintenance-related services to the oil sands industry. Other businesses include manufacturing (Mikisew Industrial Supply Ltd.), hospitality and recreation (Mikisew Sport Fishing and a Super 8 Hotel), real estate (Mikisew Property Development), bulk fuel (Fort Petroleum), and automotive and heavy equipment maintenance (Mikisew Fleet Maintenance).[4]

According to Aboriginal Affairs and Northern Development Canada, as of December 2012, MCFN has a registered population of 2,841, with 155 members living on MCFN's reserves and 510 on their own Crown land.[5] MCFN has a Chief and six Councillors, and follows a custom election system.[6] MCFN is a member of the Athabasca Tribal Council, together with Athabasca Chipewyan First Nation, Chipewyan Prairie First Nation, Fort McKay First Nation, and Fort McMurray No. 468 First Nation.[7]

Historical background

The Cree peoples of Fort Chipewyan adhered to Treaty 8 on June 21, 1899.[8] After adhering to Treaty 8, the Crees of Fort Chipewyan became known as the "Fort Chipewyan Cree Indian Band" and later changed to MCFN.[9]

As early as 1922, MCFN began to request that it be provided with reserve lands in accordance with the terms of Treaty 8.[10] In 1986, MCFN and Canada reached an agreement that addressed MCFN's outstanding reserve entitlement under Treaty 8. Rather

---

[1] Aboriginal Affairs and Northern Development Canada (AANDC). 2012. *First Nation Detail, Mikisew Cree First Nation*. Available at: http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNMain.aspx?BAND_NUMBER=461&lang=eng. Accessed: December 2012 ("AANDC, Mikisew Cree First Nation").

[2] Athabasca Tribal Council. 2012. *Athabasca Chipewyan First Nation*. Available at: http://atc97.org/first-nations/athabasca-chipewyan-first-nation/ Accessed: December 2012.

[3] AANDC, Mikisew Cree First Nation.

[4] Mikisew Group of Companies. 2012. *Home*. Available at: http://www.mikisewgroup.com/. Accessed: December 2012.

[5] AANDC, Mikisew Cree First Nation.

[6] AANDC, Mikisew Cree First Nation.

[7] Athabasca Tribal Council. 2012. *Home*. Available at: http://atc97.org/. Accessed: December 2012.

[8] *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2004 FCA 66, at para 30.

[9] Indian Claims Commission (ICC). 1997. *Inquiry into the Claim of the Mikisew Cree First Nation*. Ottawa, ON. Available at: http://www.publications.gc.ca/collections/collection_2009/indianclaims/RC31-72-1997E.pdf. Accessed: December 2012 ("ICC Inquiry") at 5.

[10] ICC Inquiry at 6.

than taking all of the entitlement in reserve lands, MCFN received a portion of the entitlement as reserves (including a small reserve within Wood Buffalo National Park), and cash compensation for the remainder of the land owed under Treaty 8. The agreement also ensures that MCFN will have wildlife harvesting rights.[11]

Traditional Territory Map

No map was provided to BC Hydro by Mikisew Cree First Nation.

[11] ICC Inquiry at 7.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A18 PART 2

BC HYDRO CONSULTATION SUMMARY: MIKISEW CREE FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

<contact information removed>

Prepared by:

Site C First Nations Engagement Team

<contact information removed>

January 2013

Volume 5 Appendix A, Part 2, provides a summary of consultation activities undertaken by BC Hydro with each of the 29 Aboriginal groups listed in Table 9.1 of the EIS, as required pursuant to section 7.2.1 of the EIS Guidelines. This summary describes consultation activities that took place between November 1, 2007 and November 30, 2012, including meetings, phone calls, letters and emails, and consists of a high-level description of "key events" followed by a chronological summary of the consultation process during the above time period.

Volume 5 Appendix A, Part 2, will be updated with new or additional information prior to the submission of the EIS to the Joint Review Panel.

MIKISEW CREE FIRST NATION

CONSULTATION SUMMARY

Defined terms	
"Athabasca Chipewyan"	Athabasca Chipewyan First Nation
"BCEAO"	Environmental Assessment Office, Province of British Columbia
"CEA Agency"	Canadian Environmental Assessment Agency
"Dene Tha'"	Dene Tha' First Nation
"EIS"	Environmental Impact Statement
"Fasken Martineau"	Fasken Martineau DuMoulin LLP, legal counsel for BC Hydro
"JFK Law"	Janes Freedman Kyle Law Corporation, legal counsel for Mikisew Cree First Nation, Athabasca Chipewyan First Nation and Dene Tha' First Nation
"GIS"	Geographic Information Systems
"historical grievances"	Mikisew Cree First Nation's allegations of damages arising from the construction and operation of BC Hydro's existing facilities on the Peace River
"Mikisew Cree"	Mikisew Cree First Nation
"Nations"	Athabasca Chipewyan First Nation, Mikisew Cree First Nation and Dene Tha' First Nation, collectively
"PAD"	Peace Athabasca Delta
"Potential Downstream Changes Report" or "Downstream Report"	Site C Clean Energy Project, *Potential Downstream Changes* (BC Hydro, May 2012)

"Province"	Province of British Columbia
"Site C" or "the Project"	The proposed Site C Clean Energy Project
"Stage 3 Consultation Agreement"	Site C Clean Energy Project Stage 3 Consultation Agreement between Mikisew Cree First Nation and BC Hydro, dated March 31, 2011

Key events

2007

- November: BC Hydro made initial contact with Mikisew Cree and expressed its commitment to effective consultation with respect to the Project.

2008

- March: Mikisew Cree wrote to BC Hydro, in response to BC Hydro's letter dated November 21, 2007, expressing concern that the proposed Project may negatively impact its treaty and Aboriginal rights. Mikisew Cree expressed interested in engaging with BC Hydro respecting the Project.
- April: BC Hydro wrote to Mikisew Cree and expressed interest in scheduling an introductory meeting to provide an overview of the Project and develop a consultation plan.
- June: BC Hydro met with Mikisew Cree's consultation coordinator and provided a Project overview.

2009

- March: BC Hydro met with representatives of Mikisew Cree, including its Chief and legal counsel. The parties discussed outstanding litigation concerning allegations of damages arising from BC Hydro's existing facilities on the Peace River, which Mikisew Cree had commenced against BC Hydro in 1998. Mikisew Cree confirmed that the litigation was in a state of abeyance, but stated that the litigation, and the cause of it, was still a high priority for Mikisew Cree members. Mikisew Cree expressed interest in establishing a process to address its historical grievances, and suggested that such a process would need to be agreed on before consultation on the Project could proceed. BC Hydro tabled a draft Stage 2 consultation agreement.

2010

- February: BC Hydro met with Mikisew Cree's legal counsel to discuss historical

grievances, future consultation and capacity funding. BC Hydro offered to provide Mikisew Cree with a draft Stage 3 consultation agreement.

- April: BC Hydro advised Mikisew Cree of the Province's announcement that the Project would move forward to Stage 3, and provided a link to a website containing the Stage 2 Report and 35 appended studies and reports.

- September: BC Hydro met with representatives of Mikisew Cree (Chief, legal counsel) to discuss the issue of historical grievances and review a draft Stage 3 consultation agreement. Mikisew Cree emphasized the importance of resolving the historic issues, but suggested that it did not want to get bogged down where the parties could not discuss the Project. The parties agreed to meet for further discussions on historical grievances.

- October: BC Hydro provided Mikisew Cree with interim funding for the negotiation of a Stage 3 consultation agreement.

2011

- February: BC Hydro and Mikisew Cree engaged in negotiations regarding the terms of the Stage 3 consultation agreement, including funding parameters for a defined consultation project involving an independent review of the updated Downstream Report.

- March:

  1. BC Hydro and Mikisew Cree finalized the *Stage 3 Consultation Agreement*, which established the principles, process, scope, and funding parameters for consultation between BC Hydro and Mikisew Cree in Stage 3. It also provided for a defined consultation project under which BC Hydro would provide Mikisew Cree with a copy of the updated Downstream Report (spring 2012), and Mikisew Cree would review and provide feedback on the report within three months of receiving the report.

  2. BC Hydro provided Mikisew Cree with summary documents describing proposed studies for the 2011 field program, to be undertaken through the Environmental Program (Physical Environment), and invited feedback and comments. BC Hydro also provided a link to three Stage 2 studies, including the *Review of Potential Downstream Changes from Site C Operations - Preliminary Findings* (October, 2009)

- May: BC Hydro advised Mikisew Cree that it had submitted the Project Description

Report and provided a link to the report.

- September: BC Hydro met with the Mikisew Cree's Chief and Council. BC Hydro provided a Project update and expressed interest in taking steps to implement the *Stage 3 Consultation Agreement* by setting up further meetings with Chief and Council and the Mikisew Cree community. Mikisew Cree was reluctant to engage too deeply in consultation while the historical issues remained outstanding. BC Hydro agreed to advise its staff responsible for dealing with the historical grievances of Mikisew Cree's interest in meeting.

2012

- February:

  3. BC Hydro wrote to Mikisew Cree to provide an update on BC Hydro's proposed approach to Site C procurement and contracting work.

  4. BC Hydro wrote to Mikisew Cree to provide an update on the progress towards completing an updated report regarding potential downstream changes, including an overview of some preliminary study results. BC Hydro offered to meet with Mikisew Cree to review the interim results.

- April: BC Hydro sent a letter to Mikisew Cree attaching an updated map of the proposed Project footprint and offering access to associated GIS shape file data. The letter attached a memorandum describing the details of the new or amended information.

- May:

  5. BC Hydro provided Mikisew Cree with the Potential Downstream Changes Report (May 2012) and requested input regarding the results. The letter offered to arrange a meeting with BC Hydro's subject matter expert in hydrology to discuss the report's findings.

  6. BC Hydro wrote to Mikisew Cree regarding the process and rationale for identifying the proposed Valued Components and spatial boundaries in the draft EIS Guidelines, and expressed interest in receiving feedback from Mikisew Cree.

- June/July: BC Hydro met with representatives of Athabasca Chipewyan, Dene Tha' and Mikisew Cree, including their legal counsel and hydrology consultant, to present the results of the Potential Downstream Changes Report. BC Hydro's Senior Engineer and Hydrology Expert reviewed the report's findings with respect to expected changes in the surface water regime, the ice regime, and geomorphology

and sediment transport, summarized as follows:

- Surface water regime: BC Hydro stated that there was limited potential for changes in downstream flows and water levels because of the limited storage in the Site C reservoir. BC Hydro expected that the fluctuation (range) of water levels would increase near the Site C tailrace, with the effect diminishing further downstream and no fluctuations being observed at the Town of Peace River and Fort Vermillion. Based on the findings to date, BC Hydro did not expect changes to the PAD as a result of the Project.

- Ice regime: BC Hydro reviewed the results of ice modeling which showed that there would be (a) no changes in ice thickness, (b) no changes in the timing of ice break-up, and (c) a slight delay in ice front progressions, with an average delay of three days at the Town of Peace River. The expected changes to the ice regime would extend only as far as Sunny Valley and Carcajou, which supported a determination that no changes would occur in areas further downstream, such as the PAD.

- Geomorphology / sediment transport: BC Hydro expected a reduction in suspended sediment, because the reservoir would trap some of the sediment upstream, but did not expect changes to erosion or depositional patterns in the Peace River.

Representatives of the Nations and JFK made a number of requests for additional information throughout the presentation. BC Hydro agreed to consider the requests made in the meeting, and follow up with the Nations. JFK Law, legal counsel for Athabasca Chipewyan, Dene Tha' and Mikisew, subsequently wrote to BC Hydro and listed the information requests arising in the meeting, and advised that it would be difficult for the Nations' hydrology consultant to comment on the report without additional information being provided. BC Hydro wrote to JFK Law and enclosed a table and other documentation responding to the information requests. Between August and November, JFK Law and BC Hydro's legal counsel exchanged multiple letters regarding BC Hydro's responses to the information requests.

- September: BC Hydro wrote to Mikisew Cree advising that the EIS Guidelines had been issued by the BCEAO and the CEA Agency on September 7. BC Hydro highlighted the areas of the EIS Guidelines that specifically addressed the incorporation of information from Aboriginal groups, and invited Mikisew Cree to provide additional information for BC Hydro's consideration in preparing the EIS. The letter included a specific request for a traditional territory map, as well as requests for information regarding Mikisew Cree's current use of lands and resources for hunting fishing and trapping, and other purposes, and information regarding how the Project

would affect Mikisew Cree's current use of lands and resources, and their exercise of asserted or established Aboriginal rights and treaty rights. BC Hydro followed up in late October and advised that it remained interested in receiving additional information to support the preparation of the EIS.

- October:
  - BC Hydro met with representatives of Dene Tha' and Mikisew Cree, and JFK Law to discuss the scope, identification and selection of Valued Components, and the methodology used to select the spatial boundaries for the Value Components. BC Hydro reiterated its interest in understanding the current use of lands and resources of the Nations in their traditional territories. JFK Law expressed concern that BC Hydro had not agreed to fund a traditional use or traditional knowledge study for Athabasca Chipewyan or Mikisew Cree. BC Hydro explained its conclusion, based on the study results to date, that the downstream changes resulting from the Project would not extend as far as the traditional territories of Athabasca Chipewyan and Mikisew Cree. BC Hydro proposed to provide Athabasca Chipewyan and Mikisew Cree with defined consultation funding to collate/gather existing information regarding their current use of lands and resources.
  - JFK Law wrote to BC Hydro and advised that, from the perspective of Athabasca Chipewyan and Mikisew Cree, the consultation process had been an empty one because BC Hydro had pre-determined that there would be no potential impacts. It further advised that Athabasca Chipewyan and Mikisew Cree intended to bring their concerns forward to the CEA Agency and the BCEAO.
  - BC Hydro met with the hydrology consultant representing the Nations to discuss the hydrology studies summarized in BC Hydro's Potential Downstream Changes Report. BC Hydro provided an overview of how each study was carried out, and the analysis for the key hydrology studies related to the surface water regime, ice/thermal regime, and geomorphology, and responded to questions.
  - BC Hydro sent a letter to Mikisew Cree which advised that BC Hydro had updated the Project footprint map for Site C, and provided a link to the updated map and associated shape file data. The letter attached a memorandum outlining the specifics of the new and amended information, which identified, among other things, a reduction in the area of the proposed Site C dam site from 3907 hectares (April 2012) to 2025 hectares (October 2012).
- November: BC Hydro wrote to JFK Law and expressed the view that the meeting with the hydrology consultant had been a beneficial one. BC Hydro noted that it looked forward to receiving the hydrologist's report and to continuing discussions with the

Nations. The letter described BC Hydro's efforts to address information requests arising from the meeting.

Chronology of events

2007

On November 21, 2007, BC Hydro sent an introductory letter to Mikisew Cree regarding the Project. The letter introduced BC Hydro's senior advisor responsible for First Nations consultation, and expressed BC Hydro's commitment to effective consultation with First Nations should the Project proceed further through BC Hydro's multi-stage decision making process.

2008

On March 25, 2008, Mikisew Cree responded to BC Hydro's letter dated November 21, 2007, and noted that it had yet to hear back from BC Hydro regarding initializing engagement with Mikisew Cree in relation to the Project. Mikisew Cree advised that it had serious concerns with any proposed dam on the Peace River that had the potential to negatively impact its treaty and Aboriginal rights. Mikisew Cree advised that it expected to be consulted on the design of any environmental and regulatory review process, and expressed interest in meeting with BC Hydro.

On April 14, 2008, BC Hydro sent a letter to Mikisew Cree in follow up to BC Hydro's letter dated November 21, 20007 and to Mikisew Cree's letter dated March 25, 2008. The letter advised that BC Hydro had developed an engagement strategy for the Project and formed a team to consult with First Nations. The letter advised that BC Hydro planned to begin meeting with Treaty 8 First Nations in Alberta and the Northwest Territories in May and June, and would contact Mikisew Cree in the upcoming weeks to set up an introductory meeting.

On June 9, 2008, BC Hydro met with Mikisew Cree's consultation coordinator to provide an overview of the Project. The parties discussed potential downstream effects of the Project, historical grievances, and BC Hydro's approach to consultation. BC Hydro provided a copy of the Stage 1 Summary Report.

On June 19, 2008, BC Hydro sent a letter to Mikisew Cree further to the meeting of June 9, 2008. BC Hydro advised that it would contact Mikisew Cree in the upcoming weeks to find a suitable date for a future meeting with Mikisew Cree's new Chief and Council. The letter enclosed several copies of the Stage 1 Summary Report.

2009

On March 3, 2009, BC Hydro met with representatives of Mikisew Cree (Chief, Councillor, staff members, legal advisors). The parties discussed outstanding litigation concerning allegations of damages arising from BC Hydro's existing facilities on the Peace River, which Mikisew Cree had commenced against BC Hydro in 1998. Mikisew Cree confirmed that the litigation was in a state of abeyance, but stated that the litigation, and the cause of it, was still a high priority for Mikisew Cree members. Mikisew Cree described some of its grievances arising from the W.A.C. Bennett Dam and the Williston Reservoir, particularly impacts on the PAD. Mikisew Cree expressed interest in entering into a process to deal with historical grievances, and suggested that a process would need to be agreed on before Stage 2 consultations on the Project could proceed. BC Hydro tabled a draft Stage 2 consultation agreement.

2010

On February 8, 2010, BC Hydro met with Mikisew Cree's legal counsel to discuss historical grievances, future consultation and capacity funding. BC Hydro emphasized the need to keep the issue of historical grievances separate from the Site C consultation process. Mikisew Cree expressed the view that the two issues were linked, and therefore, at a minimum, it expected to see a reference in the consultation agreement to BC Hydro's willingness to discuss historical grievances and the related litigation. BC Hydro offered to provide Mikisew Cree with a draft Stage 3 consultation agreement, and the parties discussed possible arrangements for capacity funding.

On April 19, 2010, BC Hydro sent an email to Mikisew Cree advising that the Province had announced that the Project would move forward to Stage 3, the Environmental and Regulatory Review Stage. The email also provided a link to the Project website where the final Stage 2 Report and 35 appended studies and reports had been posted.

On September 29, 2010, BC Hydro met with representatives of Mikisew Cree (Chief, legal advisor). The parties agreed that BC Hydro would provide Mikisew Cree with a one-time payment of interim capacity funding for negotiation of the consultation agreement. BC Hydro agreed to provide Mikisew Cree with a copy of the Downstream Report after the next drafts of the Stage 3 consultation agreement had been exchanged. Mikisew Cree emphasized the importance of the resolving the historic issues, but suggested that it did not want to get bogged down to where the parties could not discuss the Project. Mikisew Cree advised that it had retained a consultant to assess the alleged historic damages. The parties agreed to meet for further discussions on historical grievances, and set a tentative date for a meeting in November 2010. BC Hydro cautioned that it would take some time to obtain a mandate for negotiations.

On October 8, 2010, BC Hydro wrote a letter to Mikisew Cree, further to the meeting of September 29, 2010, and attached a draft Stage 3 consultation agreement for Mikisew Cree's review and consideration. BC Hydro advised that the latest draft did not include any

reference to Mikisew Cree's concerns regarding BC Hydro's existing facilities on the Peace River. A cheque for interim capacity funding was sent to Mikisew Cree by BC Hydro on October 12, 2012.

On November 17, 2010, BC Hydro met with Mikisew Cree's legal counsel to review the draft Stage 3 consultation agreement. BC Hydro explained that it was not prepared to support a traditional use study for Mikisew Cree at the moment, as it took the view that the Project would not have impacts on Mikisew Cree's section 35(1) rights, given its limited downstream effects. The parties discussed the possibility of a staged approach, where BC Hydro would provide Mikisew Cree with relevant Stage 2 studies, and Mikisew Cree would then have those studies reviewed to identify concerns or issues arising from the study results. Then, BC Hydro and Mikisew Cree would determine whether it was appropriate to consider a traditional use study. BC Hydro agreed to prepare a revised draft of the Stage 3 consultation agreement.

On November 25, 2010, BC Hydro sent an email to Mikisew Cree attaching a chart with links to environmental, technical and socio-economic studies completed to date. BC Hydro highlighted the *Review of Potential Downstream Changes from Site C Operations - Preliminary Findings* as potentially of most interest to Mikisew Cree.

On November 30, 2010, BC Hydro met via teleconference with Mikisew Cree's legal counsel to review the draft Stage 3 consultation agreement. BC Hydro agreed to submit a revised draft to Mikisew Cree based on the discussion.

<u>2011</u>

On February 17, 2011, BC Hydro met via teleconference with Mikisew Cree's legal counsel. BC Hydro provided an update on the timeline for submission of the Project Description Report. The parties engaged in a review of the latest draft of the Stage 3 consultation agreement, including Appendix C which outlined a work plan for Mikisew Cree's review of BC Hydro's updated Downstream Report, to be undertaken by Mikisew Cree's hydrology consultant, Dr. Martin Carver. BC Hydro agreed to Mikisew Cree's funding proposal for Dr. Carver's work. BC Hydro advised that it did not expect the updated Downstream Report to be completed until the summer of 2011.

On March 15, 2011, BC Hydro sent a letter to Mikisew Cree advising that BC Hydro was currently planning for the upcoming field season of environmental work associated with the Project. In order to engage First Nations in discussions of this work, BC Hydro had prepared summary documents that described proposed studies for the 2011 field season. The letter attached a study outline and work plan summary titled "Environmental Program: Physical Environment". The letter explained that the studies could be revised in scope or timing based on input from Aboriginal groups, and indicated that BC Hydro could arrange to

have technical staff meet with Mikisew Cree to discuss the studies. The attachment included links to the following Stage 2 Reports:

- Baseline Greenhouse Gas Emissions Report by Jacques Whitford AXYS (Stantec) (2009).
- Review of Potential Downstream Changes from Site C Operations – Preliminary Findings. Report by Jacques Whitford and BC Hydro (October 2009).
- Preliminary GHG Emissions Estimate from Construction Materials – Site C Hydro Project. Memo by Jacques Whitford and BC Hydro (2009).

On March 18, 2011, BC Hydro met via teleconference with Mikisew Cree's legal counsel to discuss further changes to the draft *Stage 3 Consultation Agreement*. BC Hydro agreed to revise the agreement based on the discussion, and circulate a revised draft for final approval by the parties. BC Hydro advised that, given the delay in finalizing the Downstream Report, BC Hydro was preparing a presentation on the work and findings to date, and would be prepared to share the presentation with Mikisew Cree in late April or early May 2011.

On April 5, 2011, BC Hydro sent an email to Mikisew Cree attaching a signed copy of the *Stage 3 Consultation Agreement*, dated March 31, 2011.

- The *Stage 3 Consultation Agreement*, dated March 30, 2012, established the principles, process and scope for consultation between BC Hydro and Mikisew Cree for Stage 3 and provided capacity funding to enable Mikisew Cree to participate in the consultation process. The agreement outlined the respective responsibilities of the parties, specifying that BC Hydro would provide Mikisew Cree with necessary information about the Project, that Mikisew Cree would be responsible for providing information about its concerns regarding the Project including potential impacts on section 35(1) rights, and that BC Hydro and Mikisew Cree would be jointly responsible for identifying strategies to avoid, mitigate, manage or accommodate those potential impacts. The agreement included a work plan for a defined consultation project, under which BC Hydro would provide Mikisew Cree with a copy of the Potential Downstream Changes Report in spring 2012, and Mikisew Cree would review and provide feedback on the report within three months of receiving the report. The agreement allocated capacity funding to support the completion of the review, to be shared between Athabasca Chipewyan, Mikisew Cree and Dene Tha'. The agreement also addressed the topics of confidentiality, dispute resolution, funding and payment schedules, and communication between the parties. The agreement remains in effect until the completion of Stage 3, subject to termination by either party upon 90 days written notice.

On April 11, 2011, BC Hydro sent a letter to Mikisew Cree enclosing the original signed copy of the *Stage 3 Consultation Agreement*, and a cheque for capacity funding issued pursuant to the *Stage 3 Consultation Agreement*.

On May 18, 2011, BC Hydro sent a letter to Mikisew Cree advising that BC Hydro had submitted the Project Description Report to the BCEAO and the CEA Agency, and provided a link to the report.

On June 16, 2011, Mikisew Cree sent an email to BC Hydro and inquired about the expected completion date of the revised Downstream Report. BC Hydro replied, on the following day, that the downstream work had been delayed and would not be completed until fall 2011.

On September 13, 2011, BC Hydro met with representatives of Mikisew Cree (Chief, Council, Director of Government and Industry Relations). BC Hydro provided an update on the Project and advised that the Project Description Report had been accepted by the CEA Agency and the BCEAO in August 2011. BC Hydro indicated that work on the Downstream Report would be complete and ready for discussion with Mikisew Cree in early 2012. BC Hydro expressed interest in taking steps to implement the *Stage 3 Consultation Agreement* by setting up further meetings with Chief and Council and the Mikisew Cree community. Mikisew Cree indicated that while a consultation agreement had been signed, it was reluctant to engage too deeply in consultations while the issues respecting the existing dams on the Peace River remained outstanding. Mikisew Cree referenced the existing litigation, now in abeyance, and explained that it wished to engage in discussions with BC Hydro with a view to resolving its historical grievances. Mikisew Cree emphasized the importance of BC Hydro hearing from community members about their experience of the impacts of the W.A.C. Bennett Dam. BC Hydro agreed to advise staff responsible for dealing with the litigation of Mikisew Cree's interest in meeting to work toward a resolution. BC Hydro provided Mikisew Cree with a copy of the Project Description Report.

On September 30, 2011, BC Hydro sent an email to Mikisew Cree advising that the federal and provincial governments had announced a draft harmonization agreement that would refer the Project to a Joint Review Panel. BC Hydro noted that the regulators would be inviting written public comments on the draft agreement and provided links to the CEA Agency and BCEAO websites.

On October 7, 2011, BC Hydro sent an email to Mikisew Cree attaching a one page Project information sheet for inclusion in Mikisew Cree's fall community newsletter.

2012

On February 2, 2012, Mikisew Cree sent an email to BC Hydro and attached two revised Quarterly Financial Reports for the periods of April to June 2011, and July to September 2011, prepared pursuant to the *Stage 3 Consultation Agreement*.

On February 15, 2012, BC Hydro sent an email to Mikisew Cree attaching the following two documents intended to provide an update on BC Hydro's proposed approach to Site C procurement and contracting work:

- Examples of Potential Contracting Work Related to Construction (January 24, 2012)
- Site C Procurement Update for First Nations (January 24, 2012)

The email also provided web links to information presented at the Site C Business Information Session in fall 2011.

On February 8, 2012, BC Hydro sent a letter to Mikisew Cree to provide an update on the progress towards completing an updated report regarding the potential downstream changes expected with the Project. The letter provided an overview of the work carried out to date, a description of the scope of the current analyses, and some preliminary study results. BC Hydro offered to meet with Mikisew Cree to review the interim results or, alternatively, to meet upon completion of the updated report.

On March 23, 2012, BC Hydro sent an email to Mikisew Cree and confirmed that the Quarterly Financial Report for period July 1, 2011 to September 30, 2011, prepared pursuant to the *Stage 3 Consultation Agreement*, had been reviewed and approved.

On April 10, 2012, BC Hydro sent a letter to Mikisew Cree attaching an updated PDF map of the proposed Project footprint, and offered access to the associated GIS shape file data.

On April 23, 2012, BC Hydro sent an email to Mikisew Cree and advised that two capacity funding cheques issued pursuant to the *Stage 3 Consultation Agreement* had been couriered to Mikisew Cree.

On May 4, 2012, BC Hydro sent a letter to Mikisew Cree which attached the updated Potential Downstream Changes Report, and requested input regarding the results. The letter offered to arrange a meeting with BC Hydro’s subject matter expert in hydrology to discuss the report’s findings.

On May 16, 2012, BC Hydro sent a letter to Mikisew Cree enclosing a capacity funding cheque issued pursuant to the *Stage 3 Consultation Agreement*.

On May 23, 2012, BC Hydro sent a letter to Mikisew Cree regarding the identification of Valued Components and spatial boundaries for the environmental assessment, and

expressed interest in consulting further with Mikisew Cree on this issue. The letter explained the process and rationale used to identify Valued Components in the draft EIS Guidelines, and attached a graphic representation of the Valued Component identification methodology. The letter also explained the process of defining spatial boundaries for each Valued Component. The letter expresses BC Hydro's interest in receiving feedback from Mikisew Cree regarding the proposed Valued Components and related spatial boundaries.

On May 25, 2012, BC Hydro sent a letter to Mikisew Cree advising that BC Hydro had created a secured file transfer website for Aboriginal groups containing commonly requested Site C documents (e.g., environmental reports, maps and presentations). The letter provided a link to the website and access information.

On June 7, 2012, BC Hydro met with representatives of Mikisew Cree, Athabasca Chipewyan and Dene Tha', including their legal counsel (JFK Law) and hydrology consultant (Dr. Martin Carver), and presented the results of the Potential Downstream Changes Report. BC Hydro's Senior Engineer and Hydrology Expert reviewed the report's findings with respect to expected changes in the surface water regime, the ice regime, and geomorphology and sediment transport. BC Hydro's Manager, Environmental Program, was also in attendance to answer questions.

- Surface water regime: BC Hydro stated that that there was limited potential for changes in downstream flows and water levels, because of the limited storage in the Site C reservoir. BC Hydro explained that while the Project would increase the fluctuation (range) of water levels near the Site C tailrace, the effect on water levels would diminish farther downstream due to attenuation and tributary inflows, with no fluctuations being observed at the Town of Peace River and Fort Vermillion. BC Hydro further explained that the study results showed that no seasonal changes in the timing of releases due to the Project. BC Hydro confirmed that based on its findings to date, it did not expect changes to the PAD as a result of the Project.

- Ice regime: BC Hydro reviewed the expected changes in the ice regime as a result of the Project, explaining that (a) there would be no changes in ice thickness, (b) there would be no change in the timing of ice break-up, and (c) there would be a slight delay in ice front progressions, with an average delay of three days at the Town of Peace River. BC Hydro described the approach it had used for ice modeling, clarifying that the ice model extended as far as Fort Vermillion (831.5 km downstream of the W.A.C. Bennett Dam). JFK Law asked how BC Hydro could predict the effects on the PAD, given that no modeling was conducted downstream of Fort Vermillion. BC Hydro advised that if the model had suggested changes past Fort Vermillion, it would have extended the model to properly characterize those changes. However, the results of the modeling indicated the changes to the ice regime would only extend as far as the area between Sunny Valley and Carcajou, which supported a determination that no changes

would occur in areas further downstream such as the PAD. Mikisew Cree emphasized the importance of validating BC Hydro's assumptions that there would be no impact on the PAD, with BC Hydro agreeing to consider this suggestion. In response to a concern raised about potential impacts of climate change on the PAD, BC Hydro explained that it had done a simulation of ice levels and climate change, with and without Site C, and could share the preliminary results with the Nations.

- Geomorphology and sediment transport: BC Hydro explained that geomorphology referred to the river shape, while the sediment regime referred to the quantity, timing, and mode of transport of particulate matter by river flows. BC Hydro explained that a reduction in suspended sediment was expected because the reservoir would trap some of the sediment upstream, and that no changes were expected to erosion or depositional patterns in the Peace River as a result of the Project. BC Hydro advised that additional work was ongoing to investigate potential changes in the suspended sediment regime during the construction phase.

Representatives of the Nations and JFK made a number of requests for additional information throughout the presentation. BC Hydro agreed to consider the requests made in the meeting, and follow up with the Nations. As a general point, JFK Law reiterated the Nations' concern that a pre-industrial baseline was not being used in the analysis of downstream changes. BC Hydro replied that it was using the existing conditions as the baseline, because it was required to determine the potential changes that could occur as a result of the Project, but acknowledged the Nations' outstanding concern.

On June 21, 2012, JFK Law, on behalf of Athabasca Chipewyan, Mikisew Cree and Dene Tha', sent a letter to BC Hydro regarding the Potential Downstream Changes Report. The letter expressed concern about the general nature of the report and argued that it lacked specific information to substantiate its findings. Due to these issues, the letter advised that it would be difficult for the Nations' hydrology consultant, Dr. Carver, to comment on the report without additional information being provided. Information requests were made. Concern was expressed that Dr. Carver might not be able to complete his review by the end of the summer 2012.

On July 4, 2012, JFK Law, on behalf of Athabasca Chipewyan, Mikisew Cree and Dene Tha', sent a letter to the BCEAO and the CEA Agency (cc: BC Hydro) regarding the cumulative effects assessment methodology for the Project. The letter expressed concern that BC Hydro had not amended the EIS Guidelines in response to the Nations' comments regarding the temporal boundaries of the cumulative effects assessment. The letter reiterated the Nations' view that in order to properly assess the impact of the Project on treaty rights, it was essential to understand the Nations' historic use of the watershed, as well as the impacts of existing hydroelectric projects on the Peace River (W.A.C. Bennett and Peace Canyon dams) on the exercise of treaty rights. The letter expressed the view

that it was a “legal imperative that the temporal boundary of the cumulative effects assessment include a pre-industrial case” and urged the regulators to require BC Hydro to amend the EIS Guidelines accordingly.

On July 9, 2012, JFK Law, on behalf of Athabasca Chipewyan, Dene Tha’ and Mikisew Cree, sent a letter to BC Hydro further to its letter of June 21, 2012. The letter asked when BC Hydro would be able to provide the requested information regarding the Potential Downstream Changes Report. The letter expressed concern about the timeline for Dr. Carver to review the report, given the time that had passed in relation to the information requests.

On July 11, 2012, JFK Law, on behalf of Dene Tha’, Mikisew Cree, and Athabasca Chipewyan, sent a letter to the BCEAO and the CEA Agency (cc: BC Hydro) in response to BC Hydro’s responses to the Nations’ comments on the draft EIS Guidelines. The letter expressed concern that issues raised in earlier correspondence had been inadequately addressed or disregarded. The letter listed outstanding concerns related to the draft EIS Guidelines, including study area boundaries, the methodology for the cumulative effects assessment, purposes and principles, and determination of Valued Components.

On July 20, 2012, BC Hydro sent a letter to JFK Law, on behalf of Mikisew Cree, Dene Tha’ and Athabasca Chipewyan, in response to JFK Law’s letter of June 21, 2012. The letter enclosed a chart and other documentation which comprised BC Hydro’s response to Mikisew Cree’s information requests related to the Potential Downstream Changes Report. BC Hydro advised that it remained supportive of having Dr. Carver travel to Vancouver to meet directly with BC Hydro staff to discuss any questions he might have.

On July 24, 2012, JFK Law, on behalf of Mikisew Cree, Athabasca Chipewyan and Dene Tha’, sent a letter to BC Hydro in response to BC Hydro’s letter of July 20, 2012. The letter stated that information requested about the Potential Downstream Changes Report remained outstanding. The letter inquired if BC Hydro intended to provide the outstanding information, and if so, when it would do so. The letter suggested that the delay in receiving the information would negatively impact Dr. Carver’s ability to provide his report by the end of summer. It emphasized that the requested information was required for Dr. Carver to meaningfully review the report. Regarding BC Hydro’s offer for to meet with Dr. Carver, the letter noted that Dr. Carver preferred to review the requested information prior to assessing the need for a meeting.

On August 1, 2012, Fasken Martineau sent a letter to JFK Law in response to JFK Law’s letter of July 4, 2012, regarding concerns about the cumulative effects assessment methodology in the draft EIS Guidelines. The letter responded to assertions made by JFK Law about environmental changes in the PAD and the impact of the W.A.C. Bennett and Peace Canyon dams on the PAD. It also responded to the assertion that the historic impacts would be perpetuated and reinforced by the Project, and referenced the results in

the Potential Downstream Changes Report which showed that any incremental effects of the Project on the flow, sediment transport and ice regimes of the Peace River would be largely attenuated within a few hundred kilometres downstream of the proposed Site C dam, and in turn, hundreds of kilometres upstream of the PAD. The letter explained BC Hydro's rationale for not using a pre-industrial baseline for the cumulative effects assessment, and stated that a pre-industrial baseline was not required under federal or provincial environmental assessment legislation.

On August 1, 2012, Fasken Martineau responded via letter to JFK Law's letter of July 24, 2012, particularly the assertion made by JFK Law that information requested about downstream impacts had not been provided. The letter advised that BC Hydro had spent considerable time and effort in compiling the requested information in a timely and good faith manner, and addressed the two specific requests that JFK Law had identified as outstanding. The letter expressed the view that Dr. Carver could continue to prepare his review of the Potential Downstream Changes Report with the information provided, and that any delay would not be considered significant. BC Hydro reiterated its offer to provide reasonable travel costs for Dr. Carver to meet directly with BC Hydro staff in Vancouver.

On August 21, 2012, Fasken Martineau couriered a letter to JFK Law enclosing a DVD containing the report "A Multi-Century Flood, Climate, and Ecological History of the Peace-Athabasca Delta, Northern Alberta, Canada" (October 31, 2004), as per JFK Law's request.

On August 23, 2012, BC Hydro sent a letter to Mikisew Cree and attached two capacity funding cheques issued pursuant to the *Stage 3 Consultation Agreement*.

On August 27, 2012, BC Hydro sent a letter to Mikisew Cree enclosing a table titled "Preliminary Summary of Construction Phase Workforce" which summarized the timing, type of jobs and number of opportunities that BC Hydro anticipated would be needed to construct the Project. BC Hydro also provided a web link to its SharePoint site where additional information regarding project opportunities had been posted.

On August 29, 2012, JFK Law, on behalf of Athabasca Chipewyan, Dene Tha' and Mikisew Cree, sent a letter to Fasken Martineau in response to BC Hydro's letter of July 20, 2012, and Fasken Martineau's letter of August 1, 2012. The letter asserted that information was still required before Dr. Carver could complete his report.

On September 19, 2012, JFK Law, on behalf of Athabasca Chipewyan, Dene Tha' and Mikisew Cree, sent a letter to Fasken Martineau further to its letter of August 29, 2012, regarding outstanding information requests related to the Potential Downstream Changes Report. JFK Law asked when a response to the letter would be provided, and advised that a delay would impact Dr. Carver's ability complete his review of the report. The letter advised that Dr. Carver would like to meet with BC Hydro, and requested that the parties schedule a meeting as soon as possible.

On September 20, 2012, Fasken Martineau sent a letter to JFK Law in response to the letters from JFK Law dated August 29, 2012 and September 19, 2012. The letter noted that BC Hydro had made considerable efforts to provide the Nations with the information that might be required by Dr. Carver. The letter included a list of material and information which had already been provided to the Nations. The letter advised that BC Hydro had made these efforts in keeping with the spirit and obligations of the Stage 3 consultation agreements entered into with Dene Tha', Mikisew Cree and Athabasca Chipewyan, which contemplated that the Nations would provide feedback on the Potential Downstream Changes Report in summer 2012 (Dene Tha'; Athabasca Chipewyan) or 3 months after receipt of the final report (Mikisew Cree). BC Hydro was still awaiting receipt of the deliverables as set out in the Stage 3 consultation agreements. Further, the letter advised that BC Hydro had reviewed the letter of August 29, 2012, and it appeared that many of the requests had already been answered, were publicly available, or related to matters outside the scope of the Potential Downstream Changes Report and Dr. Carver's review. The letter included some specific responses to the information requests identified in the August 29 letter. The letter expressed the view that the Downstream Report provided ample information on which Dr. Carver could consider and comment on the nature of the studies undertaken, the predicted flow and water level changes, ice regime and sediment movement, as well as potential impacts of the results on the Nations or the exercise of their rights.

On September 21, 2012, BC Hydro sent a letter to Mikisew Cree advising that the EIS Guidelines had been issued by the CEA Agency and the BCEAO on September 7, and provided a link to where the document was available online. The letter highlighted the areas of the EIS Guidelines that specifically addressed the incorporation of information from Aboriginal groups. The letter requested any additional information such as mapping of traditional territories, traditional knowledge, concerns regarding potential for adverse effects on the various components of the environment as identified by Mikisew Cree, current land use information, including reasonably anticipated future use of lands and resources, current use of lands and resources for hunting, fishing and trapping, and current use of lands and resources for activities other than hunting, fishing and trapping. The letter advised that BC Hydro would like to continue to receive information with respect to any asserted or established Aboriginal rights and treaty rights of the community that may be adversely affected by the Project, and in particular information concerning hunting, fishing, and trapping. The letter expressed interest in understanding how the environment was valued by the community for current use of lands and resources for traditional purposes, including activities conducted in the exercise of asserted or established Aboriginal rights and treaty rights, and how current use may be affected by the Project. The letter invited Mikisew Cree to continue to identify any interests the community may have with respect to potential social, economic, health and physical and cultural heritage effects of the Project.

On October 5, 2012, BC Hydro sent an email to Mikisew Cree attaching a “save the date” sheet which outlined the dates for Site C Business Sessions to be held in November, 2012. BC Hydro explained that the sessions were to provide information on a procurement strategy and potential contracting opportunities respecting the Project.

On October 9, 2012, BC Hydro met with representatives of Dene Tha’ and Mikisew Cree, and JFK Law. BC Hydro advised that the EIS Guidelines had been finalized by the regulators, and that it had received a mandate to commence IBA negotiations with First Nations in the impacted area. The parties engaged in discussions about the scope, identification and selection of Valued Components, as well as the methodology for determining the spatial boundaries of the Valued Components. The parties also discussed BC Hydro’s letter of September 21, 2012, which invited Aboriginal groups to provide additional information for consideration in the EIS. BC Hydro reiterated its interest in understanding the current use of lands and resources of the Nations in their traditional territories. JFK Law expressed concern that BC Hydro had not agreed to fund a traditional use or traditional knowledge study for Athabasca Chipewyan or Mikisew Cree. BC Hydro explained its determination, based on the downstream studies to date, that the downstream effects would not extend as far as the traditional territories of Athabasca Chipewyan and Mikisew Cree, and therefore the exercise of treaty rights and use of lands and resources by Athabasca Chipewyan and Mikisew Cree would not be impacted. JFK Law inquired if BC Hydro would reconsider the spatial scoping of the effects assessment if new information was brought forth as a result of Athabasca Chipewyan or Mikisew Cree’s assessment of impacts on their rights. BC Hydro advised that if it received information that the rights of Athabasca Chipewyan or Mikisew Cree would be affected, it would be required to examine that information. JFK Law asserted that without assessing impacts on the PAD, BC Hydro had not done a complete assessment, and expressed the view that the consultation process had been an empty one for Athabasca Chipewyan and Mikisew Cree. BC Hydro noted that consultations with Athabasca Chipewyan and Mikisew Cree had included a wide range of activities. BC Hydro expressed the view that if the study results did not show any effects past a specific point downstream, it was reasonable to make a determination that locations even further downstream would not be affected. The parties agreed to have further discussions regarding BC Hydro’s proposal to provide Athabasca Chipewyan and Mikisew Cree with defined consultation funding to collate/gather available information regarding their current use of lands and resources. JFK Law agreed to follow up with a list of questions raised during the meeting. BC Hydro agreed to provide the wildlife and fisheries presentations, information regarding the methodology, model, and weightings applied to Valued Components, as well as the draft baseline studies for fisheries and heritage resources.

On October 19, 2012, Mikisew Cree sent an email to BC Hydro and attached its Quarterly Financial Report for the period of July to September 2012, pursuant to the *Stage 3 Consultation Agreement*.

On October 23, 2012, JFK Law, on behalf of Athabasca Chipewyan, Dene Tha', and Mikisew Cree, sent a letter to Fasken Martineau in response to Fasken Martineau's letter of September 20, 2012. The letter expressed appreciation for the information provided by BC Hydro to date in relation to potential downstream effects. However, it asserted that information requested by the Nations' had not been provided, and advised that the Nations remained hopeful that Dr. Carver would receive the outstanding information at his upcoming meeting with BC Hydro.

On October 24, 2012, JFK Law, on behalf of Athabasca Chipewyan, Mikisew Cree and Dene Tha', sent a letter to BC Hydro, further to the meeting of October 9, 2012, and included a list of information requested by the Nations at the meeting. The letter reiterated the Nations' concern that the Valued Components were chosen without consulting the Nations, and expressed the view that traditional use data should have been collected first, before Valued Components were chosen, so that the data could have helped inform the selection of appropriate Valued Components for assessing potential impacts to treaty and Aboriginal rights. With respect to Athabasca Chipewyan and Mikisew Cree, the letter reiterated the position that "there is nothing to be consulted about" given BC Hydro's position that downstream effects would not extend as far as the traditional territories of Athabasca Chipewyan and Mikisew Cree. It was the Nations' understanding that BC Hydro was only interested in collecting information about the exercise of Athabasca Chipewyan's and Mikisew Cree's treaty rights because the EIS Guidelines required it to do so. The letter indicated that, from the perspective of Athabasca Chipewyan and Mikisew Cree, the consultation process was an empty one because BC Hydro had pre-determined that there would be no potential impacts. It further advised that Athabasca Chipewyan and Mikisew Cree intended to bring these concerns forward to the CEA Agency and the BCEAO.

On October 24, 2012, BC Hydro met with Dr. Carver, a hydrology consultant representing Mikisew Cree, Dene Tha' and Athabasca Chipewyan, to discuss the hydrology studies that were carried out by BC Hydro and summarized in the Potential Downstream Changes Report. BC Hydro provided an overview of how each study was carried out, and described the analysis for the key hydrology studies related to the surface water regime, ice/thermal regime, and geomorphology. BC Hydro responded to several questions related to the uncertainty in the modelling, existing operations and impacts at the W.A.C. Bennett and Peace Canyon dams, the current incremental stress from the Project, and climate change; and indicated that the EIS would contain more details than the Report. BC Hydro agreed to consider future inquiries and provide the technical data reports that would be included in the EIS upon completion. The technical consultant agreed to finalize his review of the Potential Downstream Changes Report, and would provide it to his First Nations clients.

On October 24, 2012, Knight Piesold Ltd., consultant for BC Hydro, sent an email to Dr. Carver, consultant for Athabasca Chipewyan, Dene Tha' and Mikisew Cree, attaching a journal article titled *Geomorphic Response to River Flow Regulation: Case Studies and*

Time-Scales, by Michael Church (1995) and a reference to a thesis titled *Regulation-Induced Channel Gradation in the Peace River,* by Christopher P. Ayles (2001), in response to information requests arising from the meeting of October 24, 2012.

On October 24, 2012, BC Hydro sent a letter to Mikisew Cree advising that BC Hydro had updated the Project footprint map. The letter noted that in April 2012, BC Hydro had provided Mikisew Cree with the GIS shape file data and/or a PDF map of the Project footprint. The letter advised that the information had since been update and provided a link to a secured file transfer website containing the updated map of the Project footprint, and associated shape files. The letter also attached a memorandum outlining the specifics of the new and amended information, which included a reduction in the area of the proposed Site C dam site from 3907 hectares (April 2012) to 2025 hectares (October 2012).

On October 26, 2012, BC Hydro sent two emails to Dr. Carver, consultant for Mikisew Cree, Dene Tha' and Athabasca Chipewyan, further to requests for information made in the meeting of October 24, 2012, attaching:

- Tables of data respecting downstream ice formation in a 2080s climate change scenario;
- Operating Procedures for Influencing the Freeze Up and Break-Up of the Peace River at the Town of Peace River, prepared by the Alberta-British Columbia Joint Task Force on Peace River Ice.

On October 31, 2012, BC Hydro sent an email to JFK Law attaching links to the following materials on a secured file transfer website:

- Site C Heritage Program Update (PowerPoint)
- Wildlife Update (PowerPoint)
- Fish and Fish Habitat Update (PowerPoint)
- Peace River Valley Ungulates Study Program - Final Report
- Aquatic Productivity Technical Data Reports
- Water Quality Technical Data Report

On November 1, 2012, BC Hydro sent an email to Dr. Carver, consultant for Mikisew Cree, Athabasca Chipewyan and Dene Tha', further to the meeting of October 24, 2012. BC Hydro attached an appendix of the Peace River Water Use Plan – Hydro Operation Studies (February 2005), which contained the Terms of Reference of the "Power Studies Independent Reviewer", and a letter from the independent reviewer comprising his review of the "Peace River Water Use Plan – Hydro Operations Power Studies".

On November 5, 2012, BC Hydro sent a letter to JFK Law in response to JFK Law's letter to Fasken Martineau dated October 23, 2012. The letter expressed the view the meeting with Dr. Carver on October 24, 2012, had been a beneficial one and that a good discussion was had on a variety of topics. BC Hydro looked forward to receiving Dr. Carver's report and to ongoing discussions with the Nations regarding potential downstream changes and the potential impacts of the Project on their treaty rights. The letter described BC Hydro's efforts to address information requests arising from the meeting of October 24, 2012.

On November 15, 2012, BC Hydro sent a letter to Mikisew Cree which sought to address potential gaps in the information exchange between the parties. The letter requested that Mikisew Cree notify BC Hydro of instances where information requested in meetings or consultations to date had not been provided, and committed to following up on outstanding information requests as soon as possible.

On November 20, 2012, JFK Law sent a letter to BC Hydro advising that it was in the process of trying to coordinate a meeting date with Mikisew Cree, Dene Tha', and Athabasca Chipewyan as a follow up to the meeting of October 9, 2012, and hoped that a meeting could be scheduled in mid-December. The letter also contained information requests.

On November 29, 2012, BC Hydro sent an email to Mikisew Cree in follow up to the meeting of October 24, 2012. BC Hydro provided a link to the secured file transfer website for Aboriginal groups, containing draft Technical Data Reports for the Reservoir Temperature and Ice Regime and the Downstream Ice Regime.

On November 30, 2012, Mikisew Cree sent an email to BC Hydro and attached the Quarterly Financial Report for the period of July to September 2012, prepared pursuant to the *Stage 3 Consultation Agreement*.

On November 30, 2012, BC Hydro sent an email to Mikisew Cree in follow up to the meeting of October 24, 2012, and attached the following documents:

- BC Hydro's response letter to JFK Law's letter (October 24, 2012) – November 30, 2012
- Valued Component Selection and Project Interaction Matrix – November 30, 2012
- Draft EIS Project and Activity Inclusion List – November 30, 2012

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A18 PART 2(A)

BC HYDRO CONSULTATION SUMMARY: MIKISEW CREE FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

<contact information removed>

Prepared by:

Site C First Nations Engagement Team

<contact information removed>

Updated July 2013

Volume 5 Appendix A, Part 2, provides a summary of consultation activities undertaken by BC Hydro with each of the 29 Aboriginal groups listed in Table 9.1 of the EIS, as required pursuant to section 7.2.1 of the EIS Guidelines. This summary describes consultation activities that took place between December 1, 2012 and May 31, 2013, including meetings, phone calls, letters and emails.

Volume 5, Appendix A, Part 2 is an update of the summary of consultation activities filed with the EIS on January 25, 2013.

MIKISEW CREE FIRST NATION

CONSULTATION SUMMARY

Defined terms	
"Athabasca Chipewyan"	Athabasca Chipewyan First Nation
"BCEAO"	Environmental Assessment Office, Province of British Columbia
"CEA Agency"	Canadian Environmental Assessment Agency
"Dene Tha'"	Dene Tha' First Nation
"Desktop TLU report"	Desktop Traditional Land Use Report titled "MCFN and ACFN Desktop Knowledge and Use Report" prepared by The Firelight Group on behalf of Athabasca Chipewyan and Mikisew Cree, dated December 28, 2012.
"EIS"	Environmental Impact Statement
"JFK Law"	Janes Freedman Kyle Law Corporation, legal counsel for Mikisew Cree First Nation, Athabasca Chipewyan First Nation and Dene Tha' First Nation
"Mikisew Cree"	Mikisew Cree First Nation
"Nations"	Athabasca Chipewyan First Nation, Mikisew Cree First Nation and Dene Tha' First Nation, collectively
"PAD"	Peace Athabasca Delta
"Potential Downstream Changes Report"	Site C Clean Energy Project, *Potential Downstream Changes* (BC Hydro, May 2012)
"Site C" or "the Project"	The proposed Site C Clean Energy Project
"*Stage 3 Consultation Agreement*"	Site C Clean Energy Project Stage 3 Consultation Agreement between Mikisew Cree First Nation and BC

	Hydro, dated March 31, 2011
"VC"	Valued Component

Chronology of events

2012

On December 5, 2012, BC Hydro sent an email to JFK Law, attaching two documents, as required by the EIS Guidelines:

- "Draft Discussion Paper re: Treaty 8 Rights" (a document outlining BC Hydro's understanding of Treaty 8 rights), and

- "Methodology Overview for Section 19 of the Site C Clean Energy Project Environmental Impact Statement, 'Current Use of Lands and Resources for Traditional Purposes'" (A discussion document on the methodology used for the assessment of effects on the current use of lands and resources for traditional purposes by Aboriginal people).

The documents were sent to JFK Law for discussion at the meeting scheduled on December 13, 2012.

On December 5, 2012, JFK Law sent an email to BC Hydro, on behalf of Athabasca Chipewyan and Mikisew Cree, attaching a proposed budget for a desktop review of existing TLU information in the Peace Point area of the respective territories of Athabasca Chipewyan and Mikisew Cree.

On December 11, 2012, BC Hydro sent an email to the Nations and to JFK Law, to the following draft EIS Technical Data Reports on a secured file transfer website:

- Aquatic Productivity Reports
- Downstream Ice Technical Data Report
- Contaminated Sites Technical Data Report
- Fluvial Geomorphology and Sediment Transport Technical Data Report
- Microclimate Technical Data Report
- Noise Technical Data Report
- Peace River Valley Ungulates Study Program Technical Data Report
- Water Quality Technical Data Report
- Air Quality Technical Data Report

BC Hydro noted that the reports were in draft form and that edits may be made prior to submission of the EIS.

On December 13, 2012, BC Hydro met with representatives of the Nations (Consultation Coordinator, Lands Manager, Government Industry Relations Director, Government Industry Relations Liaison), JFK Law and PGL, environmental consultant for the Nations. BC Hydro's Environmental Programs Manager and Regulatory Manager attended by teleconference. BC Hydro reviewed the timelines for the EIS process and confirmed that information provided in the outstanding desktop TLU studies would be considered by BC Hydro prior to finalizing the EIS.

JFK Law provided an overview of the Nations' comments on BC Hydro's letter of November 30, 2012, focusing on issues related to spatial scoping and cumulative effects. On spatial scoping, questions were raised as to why the boundaries for the VCs did not extend as far as the areas in which hydrology and geomorphology were being studied (Peace Point), and why Peace Point was chosen as the boundary for the technical studies rather than the PAD. BC Hydro's Environmental Programs Manager advised that subject matter experts had reviewed sources of information related to the physical environment (surface water regime, the velocity of flow, channel morphology, ice regime and water quality) which was integrated with other, mainly biological, information (species, range of movement and sensitivity to environmental changes) in order to determine the Local Assessment Areas and Regional Assessment Areas for the VCs. BC Hydro explained the specific factors that were considered in the selection of boundaries for the Fish and Fish Habitat, and Wildlife Resources and Vegetation and Ecological Communities VCs. Regarding the boundaries for the technical studies, BC Hydro explained that the Town of Peace River was where the hydraulic effect on water flows would dampen out as result of the increased input from tributaries. To be conservative, BC Hydro had extended the boundary to Peace Point, more than 500 km downstream, to be sure to capture any effects. With respect to a concern raised by Dene Tha' that no opportunity was available to collect data in areas downstream of Peace Point such as the PAD, BC Hydro noted that hydrology, geomorphology and sediment transport on the Peace River had been studied extensively over the past 30 years. Dene Tha' stated that it was impossible to say, unequivocally, that the PAD would not be affected unless the spatial boundaries were extended beyond Peace Point.

On cumulative effects, JFK Law reiterated the Nations' view that BC Hydro's existing projects on the Peace River needed to be considered in the cumulative effects assessment, and that a proper analysis of cumulative effects was critical to understanding impacts on the Nations' rights. BC Hydro noted that it was aware of the disagreement regarding the cumulative effects methodology and that for the areas where the parties had different views, it would have to defend the methodology and outcomes of the effects assessment. JFK Law expressed concern that BC Hydro appeared unwilling to change its perspective on issues that were important to the Nations, particularly the need to assess potential effects on the PAD, and asserted that BC Hydro's approach was inconsistent with its consultation obligations as a Crown

agent. BC Hydro explained that it was proceeding based on direction provided in the EIS Guidelines and noted that considerable discussions had taken place with the Nations regarding the PAD. JFK Law and PGL sought clarification on whether the effects of the Project in the Regional Assessment Area would be considered in the cumulative effects assessment, and identified a potential discrepancy between BC Hydro's understanding of the Regional Assessment Area and the requirements of section 8.5.3.1 of the EIS Guidelines. BC Hydro's Regulatory Manager explained that its approach was to identify any residual effects within the Local Assessment Area and then look to the broader Regional Assessment Area to source projects that may have overlapping effects in time and space within the Local Assessment Area. JFK Law stated that BC Hydro needed to consider how the Project might contribute to impacts on treaty rights in the broader Regional Assessment Area, because the Regional Assessment Area was already highly developed and the Project would remove one of the remaining locations in which First Nations exercised their rights. BC Hydro agreed to follow up regarding the role of the Regional Assessment Area in the cumulative effects assessment. BC Hydro also agreed to follow up on questions regarding the precautionary principle and the draft EIS water management plan.

JFK Law provided initial comments on "BC Hydro Draft Methodology Overview for Section 19 of the Site C Clean Energy Project Environmental Impact Statement, 'Current Use of Lands and Resources for Traditional Purposes'" dated December 5, 2012, and advised that it would follow up with written comments. JFK Law further advised that written comments would be provided on the topics addressed in BC Hydro's letter of November 30, 2012. The parties discussed possible dates for a community meeting in Fort Chipewyan.

On December 18, 2012, BC Hydro sent an email to JFK Law advising that BC Hydro would cover the costs of a desktop review of existing TLU information for Mikisew Cree and Athabasca Chipewyan. The email advised that the funding amount was based on the estimate sent by JFK Law on December 5, 2012. BC Hydro outlined the expected deliverables and indicated that the amount would be split evenly between Mikisew Cree and Athabasca Chipewyan. BC Hydro requested an invoice detailing the final costs associated with the work. JFK Law accepted the terms as outlined by BC Hydro on December 24, 2012.

On December 19, 2012, BC Hydro sent an email to Dr. Martin Carver, a hydrology consultant for the Nations, providing a copy of the data points spreadsheet used to generate the pre-regulation and regulation mean hydrographs for various points on the Peace River as requested.

On December 27, 2012, JFK Law, on behalf of the Nations, sent a letter to BC Hydro in response to BC Hydro's letter of November 30, 2012 and email of December 5, 2012, and further to the meeting on December 13, 2012. The letter contained a list of

information requests arising from the meeting on December 13, 2012, and expanded on comments and concerns raised at the meeting regarding the content of BC Hydro's letter of November 30, 2012. With respect to spatial scoping, the letter expressed concern that BC Hydro had placed the onus on downstream First Nations to collect information on downstream effects and essentially "prove" the potential for impacts downstream to the PAD, and identified a "lack of correlation" between the spatial boundaries in which hydrology and fluvial geomorphology were being studied (Peace Point) and the spatial areas for assessment of effects on VCs. The letter included a bulleted list of questions on the spatial boundaries for the environmental background studies and VCs. The letter attached maps which depicted land use by Athabasca Chipewyan and Mikisew Cree members in areas "in and around Peace Point", which were provided to illustrate that "even if Peace Point were a proper downstream end point for assessment purposes, merely looking at hydrology and fluvial geomorphology to that point is insufficient to understand the potential impacts to [Athabasca Chipewyan and Mikisew Cree] in the Peace Point area". The letter advised that the desktop TLU report for Athabasca Chipewyan and Mikisew Cree would be forwarded to BC Hydro. On cumulative effects, the letter expanded on previous comments from the Nations regarding the need to consider the impacts of past development, including the W.A.C. Bennett and Peace Canyon dams, in the cumulative effects assessment, and asserted that BC Hydro's approach was inconsistent with the BCEAO's definition of cumulative effects. The letter stated that incremental changes on water levels, geomorphology and ice regimes had the potential to impact the ability of Athabasca Chipewyan and Mikisew Cree to exercise their rights, especially in areas already compromised by existing development. The letter challenged a statement attributed to BC Hydro that "there is inadequate data to consider impacts from the Bennett and Peace Canyon dams" and identified potentially relevant information sources. The letter also contained comments and information requests in response to material provided by BC Hydro in an email of December 5, 2012, including "BC Hydro Draft Methodology Overview for Section 19 of the Site C Clean Energy Project Environmental Impact Statement, 'Current Use of Lands and Resources for Traditional Purposes'" dated December 5, 2012 and "Draft Discussion Paper re: Treaty 8 Rights". The comments on BC Hydro's understanding of Treaty 8 rights focused on the need to consider "livelihood rights" and "incidental rights" under the treaty, as well as the Nations' views on how the *Rio Tinto* case should be interpreted with respect to Crown's obligation to consider historical impacts in the consultation process. BC Hydro was invited to attend a community meeting with Athabasca Chipewyan and Mikisew Cree on January 22 or 23, 2013.

On December 29, 2012, JFK Law, on behalf of Athabasca Chipewyan and Mikisew Cree, sent an email attaching the report titled "MCFN and ACFN Desktop Knowledge and Use Report" prepared by The Firelight Group. The report provided a summary of existing baseline data related to Athabasca Chipewyan and Mikisew Cree use in and around the Peace River in the vicinity of Peace Point as well as a summary of key issues identified in the review of the existing information. JFK Law indicated that Athabasca

Chipewyan and Mikisew Cree looked forward to discussing how the information in the report would be incorporated into the EIS, including in relation to the spatial boundaries chosen for VCs. (This report is also posted on the CEA Agency website, document number 412).

On December 31, 2012, JFK Law, on behalf of the Nations, submitted the report titled "Review of Hydrologic and Geomorphic Downstream Impacts of Site C" prepared for the Nations by Dr. Martin Carver. The report focused on understanding the potential impacts of the Project on the hydrology and geomorphology in the reaches of the Peace River below the proposed Site C dam site and as far downstream as the PAD. (This report is also posted on the CEA Agency website, document number 411).

2013

On January 8, 2013, BC Hydro sent a letter to JFK Law, on behalf of Athabasca Chipewyan and Mikisew Cree, attaching payment for work associated with the Desktop TLU Report pursuant to an agreement by emails dated December 18 and 24, 2012, and January 28, 2013.

On January 10, 2013, BC Hydro sent an email to JFK Law attaching copies of the Aboriginal Land and Resource Use Summaries for Athabasca Chipewyan, Mikisew Cree, and Dene Tha', prepared by Traditions Consulting Services Ltd. for inclusion in the EIS. BC Hydro inquired if JFK Law had received a response from the Athabasca Chipewyan and Mikisew Cree respecting the inclusion of the Desktop TLU Report as an appendix to the EIS.

On January 14, 2013, JFK Law, on behalf of Athabasca Chipewyan and Mikisew Cree, sent an email to BC Hydro, and advised that, for reasons of confidentiality, the two First Nations did not want BC Hydro to append the Desktop TLU Report to the EIS. In an email response, BC Hydro inquired if the TLU maps could be appended to the EIS and JFK Law indicated that it would seek instructions and provide a response to BC Hydro. On January 16, 2013, JFK Law, on behalf of Athabasca Chipewyan and Mikisew Cree, sent an email to BC Hydro and suggested that none of the maps be appended and explained that including the information was a sensitive issue for the two First Nations as the data could be misused and the information could be placed out of context.

On January 22, 2013, JFK Law, on behalf of the Nations, sent an email to BC Hydro advising that time did not permit an in-depth review of the substance of BC Hydro's Aboriginal Land and Resource Use Summaries, and that the Nations may provide further comments during the EIS application review.

On January 28, 2013, BC Hydro sent a letter to Mikisew Cree, advising that it had submitted the EIS to CEA Agency and the BCEAO. The letter explained that the EIS

described the rationale for the Project, identified potential effects and benefits, proposed measures to avoid or mitigate effects and met other information requirements set out in the EIS Guidelines. The letter included links to CEA Agency and the BCEAO's websites containing the complete EIS. In accordance with Section 20.8 of the EIS Guidelines, BC Hydro also attached an Aboriginal Summary, presenting its understanding of asserted or established Aboriginal rights and treaty rights, and other Aboriginal interests potentially impacted by, and concerns with respect to, the Project. This summary also provided BC Hydro's understanding of the potential adverse effects of the Project on those asserted or established Aboriginal rights and treaty rights and interests.

On February 4, 2013, BC Hydro sent a letter to JFK Law, on behalf of Athabasca Chipewyan and Mikisew Cree, attaching payment for work completed on the Desktop TLU Report pursuant to an agreement by emails dated December 18 and 24, 2012, and January 28, 2013.

On February 8, 2013, BC Hydro sent an email to JFK Law, representing the Nations requesting clarification respecting invoicing and quarterly financial reports.

On February 10, 2013, JFK Law, on behalf of the Nations, sent an email to BC Hydro in response to its request for clarification regarding invoicing and quarterly financial reports. JFK Law requested that legal invoices be returned due to solicitor-client privilege.

On February 13, 2013, BC Hydro sent a letter to Dr. Martin Carver, a hydrology consultant for the Nations, attaching payment as reimbursement for expenses related to the meeting held on October 24, 2012. Payment was made upon receipt of invoices from Dr. Carver.

On February 13, 2012, BC Hydro met with representatives of Mikisew Cree (Chief, three Councillors, Director of Government & Industry Relations, Community Coordinator, JFK Law, Elder Coordinator, CEO), as well as 18 community members including elders and trappers, to provide a Project update and present an overview of the potential downstream changes. BC Hydro outlined general information about the Project and summarized the regulatory process. BC Hydro's Hydrology Expert reviewed the expected changes in the surface water regime, the ice regime, and geomorphology and sediment transport, summarized as follows:

- Surface Water Regime: BC Hydro reported that it was likely the Project would result in greater fluctuation of water levels near the Site C tailrace with effects diminishing further downstream and little notable change at the Town of Peace River. BC Hydro indicated that in general there would be no seasonal change in the timing of water releases.

- Ice Regime: BC Hydro reviewed the expected changes in the ice regime as a result of the Project, explaining that (a) there would be negligible changes in ice thickness, (b) there would be no change in the timing of ice break-up, and (c) there would be a slight delay in ice front progression, with an average delay of three days at the Town of Peace River, and greater upstream.

- Geomorphology and Sediment Transport: BC Hydro indicated that no changes to geomorphology were expected due to the small changes in the flow regime expected with Site C and that the total suspended sediment load in the Site C outflow would be reduced as the Site C Reservoir would act as a sediment "sink" due to the slower moving water in the reservoir compared to today's river.

BC Hydro stated that it had come to the conclusion that the Project would not have an effect on the PAD based on the analysis undertaken for the EIS. A community member asked how BC Hydro could reach this conclusion given that no studies were done on the PAD. BC Hydro advised that the W.A.C. Bennett dam changed the flow of the Peace River on a seasonal basis and that Site C was different as it was much smaller, with less storage capacity, and would not change seasonal timing of flows as it would take water out of the Williston Reservoir and pass it on downstream. BC Hydro advised that it had used models to simulate the operation of the reservoir and assessed predicted changes to water levels and flow downstream as far as Peace Point. BC Hydro explained that the hardly any changes were noted at Peace Point, and a conclusion was reached that the Project would not have any influence as far downstream as the PAD, but that small changes would be expected in B.C.

BC Hydro provided an overview of the EIS submission, explaining that it contained an assessment of the potential effects of the Project on the current use of lands and resources for traditional purposes and the potential impacts of the Project on the exercise of asserted or established Aboriginal rights and treaty rights of Mikisew Cree. BC Hydro also identified the sections of the EIS that may be of initial interest to Aboriginal groups and outlined the next steps in the Environmental Assessment process including BC Hydro's interest in input from Mikisew Cree regarding any aspect of the EIS and additional information that Mikisew Cree may wish to provide, including traditional knowledge, regarding its use of lands and resources that may interact with the Project.

Following the presentation, BC Hydro took questions and comments, many of which were related to historical grievances with the W.A.C. Bennett dam, with BC Hydro confirming that separate discussions were underway with representatives of BC Hydro and Mikisew Cree to address historical grievances. Mikisew Cree expressed concerns regarding BC Hydro's assessment that it would not be impacted by the Project, with Mikisew Cree requesting a meeting with BC Hydro's decision makers. Mikisew Cree also expressed concerns with BC Hydro's cumulative effects assessment, the lack of study

on the effects of the Project on the PAD, the potential for the Project to impact trapping by Mikisew Cree members, and concern that the Project would bring no benefits to Mikisew Cree. BC Hydro agreed to follow up regarding the involvement of Mikisew Cree in monitoring the PAD in the event the Project would proceed. Mikisew Cree asked if BC Hydro would be willing to fund a traditional knowledge study by Mikisew Cree, with BC Hydro agreeing to this proposal.

On February 26, 2013, BC Hydro sent an email to JFK Law in response to JFK Law's email dated February 10, 2013. BC Hydro responded to JFK Law's concerns respecting financial reporting requirements pursuant to the Nations' respective Stage 3 consultation agreements and extended an offer to schedule a meeting to discuss the matter further.

On March 14, 2013, JFK Law sent a letter to BC Hydro, attaching a copy of the minutes from the meeting held on February 13, 2013 with Mikisew Cree and asked that BC Hydro advise if it disagreed with anything in the minutes. The letter noted that BC Hydro had committed to responding to question from the meeting respecting the involvement of Mikisew Cree in monitoring the PAD in the event the Project would proceed. The letter also advised that JFK Law had been looking forward to a response from its December 27, 2012 letter as well as BC Hydro's comments on Dr. Carver's report.

On March 21, 2013, BC Hydro sent a letter to JFK Law in response to JFK Law's letter of December 27, 2012. BC Hydro's letter contained responses to information requests arising from the meeting on December 13, 2012, as well as responses to specific questions on the spatial boundaries used for the environmental background studies and VCs. Regarding the question of why the spatial boundaries of the VCs did not extend to the point at which changes were expected to hydrology and fluvial geomorphology, the letter explained that in areas downstream of the spatial boundaries of the VCs, "the predicted changes in the physical environment diminished to point where the change could no longer influence the VC". The letter noted BC Hydro's disagreement with the assertion that it was attempting to "shift the onus" to the Nations to establish the potential for impacts downstream to the PAD, explaining that BC Hydro had conducted preliminary and subsequent analyses that resulted in a decision to exclude the PAD from the study area used for the analysis of downstream changes. The letter acknowledged receipt of Desktop TLU Report from Athabasca Chipewyan and Mikisew Cree and advised that the reports had been provided to Traditions Consulting Services Ltd. for consideration in preparing the Aboriginal Land and Resource Summaries in the EIS. In addition, the letter responded to information requests and comments regarding the draft document provided by BC Hydro on the methodology for the assessment of effects on current use of land and resources for traditional purposes. The letter advised that the final version of the methodology was found in the EIS at Section 19, and explained how the Section 19 effects assessment related to the assessment of the potential impacts on asserted or established Aboriginal and treaty rights in Section 34. In response to the invitation to meet with Athabasca Chipewyan and Mikisew Cree, the letter noted the BC

Hydro had met with Mikisew Cree on February 13, 2013, and would continue to endeavor to arrange a meeting with Athabasca Chipewyan.

On April 9, 2013, Mikisew Cree sent an email to BC Hydro, attaching the quarterly financial reports pursuant to the *Stage 3 Consultation Agreement*.

On April 9, 2013, BC Hydro sent a letter to JFK Law attaching a payment for expenses related to Dr. Martin Carver's review of BC Hydro's Potential Downstream Changes Report.

On April 14, 2013, JFK Law, on behalf of the Nations, sent a letter to the CEA Agency and the BCEAO attaching the Nations' comments on the draft EIS. (This letter is also posted on the CEA Agency website, document number 1401).

On May 7, 2013, BC Hydro sent a letter to Mikisew Cree attaching a capacity funding cheque issued pursuant to the *Stage 3 Consultation Agreement*.

On May 15, 2013, Mikisew Cree submitted an audited financial report to BC Hydro pursuant to the *Stage 3 Consultation Agreement*.

On May 16, 2013, JFK Law sent an email to BC Hydro, attaching a statement of work and budget for a Traditional Ecological Knowledge study, as proposed at a meeting with Mikisew Cree on February 13, 2013. The email indicated that the proposal was for a joint study for Athabasca Chipweyan and Mikisew Cree. BC Hydro responded by email on May 20, 2013. BC Hydro advised that the proposal submitted by JFK Law was outside of the type of budget and process envisioned when the commitment was made, and responded with a funding amount that BC Hydro would consider for the collection of traditional knowledge. JFK Law responded by email and indicated that BC Hydro's response would be communicated to Athabasca Chipweyan and Mikisew Cree.

On May 28, 2013, BC Hydro sent an email in response to Mikisew Cree's email dated May 15, 2013 in which it had attached an audited financial statement pursuant to the *Stage 3 Consultation Agreement*. BC Hydro asked for clarification respecting some items in the report.

On May 29, 2013, BC Hydro sent a letter to JFK Law thanking the Nations for providing the report by Dr. Martin Carver ("Review of Hydrologic & Geomorphic Downstream Impacts of Site C", December 2012) and advising that BC Hydro had reviewed and considered Dr. Carver's report in light of the requirements in the EIS Guidelines. The letter provided BC Hydro's response to Dr. Carver's report including: (1) general responses and clarifications to some assertions made throughout the report; (2) a response to each of the ten recommendation made in the report; and (3) a table with specific comments, corrections, and clarifications with reference to specific statements

made in the report. The letter also contained a table summarizing topics that the report identified as missing from BC Hydro's Potential Downstream Changes Report and the corresponding sections of the EIS in which each was described. The letter attached Technical Memoranda prepared by BC Hydro on the following topics: Spatial Boundary Selection, Peace Athabasca Delta, Cumulative Effects Assessment, Uncertainty and Precaution, and Dam Safety. The letter also attached a chronological summary of BC Hydro's engagement with the Nations on the issue of potential downstream changes.

The following table sets out BC Hydro's response, as set out in the letter, to several statements made in Dr. Carver's report:

Statement in Dr. Carver's report	**BC Hydro response**
Assertion that "the operation regimes of the existing dams have contributed to the impairment of hydrological recharge of the PAD perched basins."	The perched basins in the PAD are recharged through overland flooding caused by ice jams and by precipitation. There has been no reduction in the magnitude or frequency of ice jams associated with regulation.
Assertion that "operating regimes of the existing facilities can be used to mitigate downstream effects, including effects from the dams on the PAD perched basins" and that it is "prudent to explore the option to substantially modify the operating regime of the existing dams should Site C be approved." …	This suggestion lies outside the scope of the environmental assessment of the Project for the following reasons: 1. BC Hydro does not propose to manage flows in the manner suggested as part of, nor as mitigation for the potential effects of the Project. 2. There is no requirement to consider measures to mitigate alleged effects of previous projects and activities. …
Assertion that because the Project would lead to a reduction in the total suspended sediment load, there would be an influence on the geomorphology (erosion and depositional patterns) of the Peace River and its tributaries.	The two fundamental processes (suspended sediment transport and channel morphology) are not inter-related in the manner implied by Dr. Carver. In the Peace River, those processes are governed by separate drivers, as follows: Changes in suspended sediment transport (clay, silt and fine sand) as a result of the Project would be due to net deposition in the Site C reservoir. Downstream of the dam, this change would be reflected as changes in suspended sediment load and concentration but not as changes in channel morphology. Changes in suspended sediment load in the Peace River are expected as a result of the

	Project as described in Section 11.8.5.2 and in Volume 2 Appendix I (Section 5) of the EIS. Changes in channel morphology are governed by peak river discharge as it controls bed mobility and bedload transport. Channel morphology would not be influenced by the Project because the magnitude of peak flows is predicted not to change [see EIS Sections 11.4.5.2.3, 11.4.5.2.4, and Volume 2 Appendix D, Part 2 Downstream Flow Modelling (1D)]. As described in Section 11.8.5.3 of the EIS, except within the 4 km reach downstream of the Site C dam under unusually high flow conditions, channel erosion and depositional patterns (i.e. channel morphology) downstream of the Site C dam are not expected to change due to the Project.
Assertion that Site C would reinforce/ strengthen/ enhance the changes brought about by the existing dams leading to changes in the perched basins of the PAD.	The expected changes in surface water regime, thermal and ice regime, and fluvial geomorphology and sediment transport as a result of the Project have been studied and are described in the Potential Downstream Changes report and further in the EIS (Sections 11.4, 11.7, 11.8 and associated appendices). In each study, it was concluded that the influence of the Project would be zero or negligible (considering the baseline variability) well upstream of the PAD. Where appropriate, a discussion of the past changes observed as a result of the existing dams is provided in the EIS.
Suggestion that BC Hydro did not provide all of the information requested to aid in Dr. Carver's review of the Potential Downstream Changes report.	BC Hydro has made significant efforts to provide the First Nations and their technical consultant with the information and resources required to conduct a review of the Potential Downstream Changes Report. Please see the attached chronological summary of engagement with the First Nations and their technical consultant in this regard.
Conclusion that "effects of the Project on the PAD constitute a 'technically valid concern' with respect to the incremental impact of Site C on the Peace-Athabasca Delta."	The influence of the Project on surface water regime, thermal and ice regime, and fluvial geomorphology and sediment transport would be zero or negligible well upstream of the PAD. BC Hydro sees no technically valid concern

	related to the study area boundaries, nor has Dr. Carver provided one. Please see attached Technical Memoranda on Spatial Boundary Selection and Peace Athabasca Delta.

On May 29, 2013, JFK Law, on behalf of the Nations, sent a letter to the CEA Agency and the BCEAO attaching the Nations' comments to BC Hydro's responses to the comments provided by the Nations on the draft EIS. (This letter is also posted on the CEA Agency website, document number 1430).

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A18 PART 3

ABORIGINAL LAND AND RESOURCE USE SUMMARY: MIKISEW CREE FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

<contact information removed>

Prepared by:

Traditions Consulting Services, Inc.

<contact information removed>

January 2013

Mikisew Cree First Nation (MCFN)

In preparing responses to these questions, information on current and past use of lands and resources by the Mikisew Cree First Nation (MCFN) was derived from a limited number of publicly available published and unpublished studies, including a number of TLUS reports.[1] BC Hydro did not enter into a Traditional Land Use Study agreement with the ACFN. The MCFN and Athabasca Chipewyan First Nation (ACFN) did submit a joint "Desktop Knowledge and Use Report for BC Hydro's Proposed Site "C" Dam Project" that was funded by BC Hydro.[2]

The MCFN is made up of members from two ethnic backgrounds: Western Woods Cree and Athabasca Denesuline whose historic territories are depicted in Figures 1 and 2.[3] As of December 2012, the MCFN had a registered population of over 2,800, the majority of whom live off-reserve. The nine MCFN Indian Reserves, created in 1986, are located in the region of the Peace-Athabasca Delta and northwest of Lake Athabasca (Figure 3).[4] While Fort Chipewyan has been the economic and administrative centre for the MCFN for generations, the cultural heartlands for the MCFN are Wood Buffalo National Park and the Athabasca River.[5]

Seven Traditional Land Use (TLU) studies undertaken with the MCFN have been produced in the past decade.[6] Only the most recent TLU study was obtained for this overview.[7] In

[1] The sources consulted for this study are set out in the References.

[2] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report for BC Hydro's Proposed Site "C" Dam Project. December 28, 2012. This study was based primarily on extracting TLU information from existing TLUS reports. The study did not include any interviews or meetings with knowledge holders to discuss the Site C project, or potential issues. The consultants did not use the 2010 Elias report that aggregated the results from previous TLUS reports for their review.

[3] Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use. Report prepared for Mikisew Cree First Nation, November 9, 2010: 3.

[4] AANDC (2012). Website. http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNMain.aspx?BAND_NUMBER=461&lang=eng.

[5] Candler, Craig and Firelight Group Research Cooperative with Mikisew Cree First Nation [Candler et al] (2012). Mikisew Cree First Nation Indigenous Knowledge and Use Report and Assessment. Report for Shell Canada's Proposed Jackpine Mine Expansion, Pierre River Mine and Redclay Compensation Lake, February 15, 2012: 34.

[6] The six TLU studies are: the Ayapaskowinowak Study (2006); the Husky Sunrise Study (2005); the PACTeam Study (2007?); Phase 1: Mikisew Cree First Nation TLU-Total Joslyn North Mine Study (2008); Phase 2: Mikisew Cree First Nation TLU-Total Joslyn North Mine Study (2010); and the Mikisew Cree First Nation Comprehensive TLU Study (2010). For a brief summary of these projects see Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use: section 2.2.1, pages 5-11.

[7] Candler et al 2012.

2010, Elias produced a report for MCFN that aggregated the data from the other six TLU studies. This report has relied on Elias' work.[8]

1. **What is the MCFN's current use of lands and resources for hunting, fishing and trapping activities, including the location of the activity, the species targeted, and the traditional uses of the harvested animals within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs?**

   Big game animals provide a large portion of MCFN diet.[9] In the past, moose, caribou, and bison were the major species hunted; today moose is the large mammal most commonly hunted. Other important resources harvested for food include waterfowl (ducks and geese); fish including whitefish, pike, walleye, burbot, trout, suckers and goldeye; and beaver.[10] Elias noted that MCFN members select lands within their territory for traditional activities that are prime resource habitat; close to places suitable for establishing habitations (cabins, camps); located on a well-travelled traditional trail or other land access route or with easy river access; and distant from industrial disturbance.[11]

   The Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs are distant from the traditional territory of the MCFN. No specific information was identified that described or documented current use by the MCFN of lands and resources within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat)LAAs or RAAs for hunting, fishing or trapping activities.

2. **What is the MCFN's current use of lands and resources for activities other than hunting, fishing and trapping, including the nature, location and traditional use purpose within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs?**

   Other traditional activities undertaken by MCFN include gathering of a variety of berries and medicinal plants.[12] As well, numerous cabins and other habitation sites are located throughout MCFN territory and are used during the year when members are out harvesting resources.

---

[8] Elias, Peter Douglas (2010). Description, Analysis and Synthesis of Six Traditional Land Use Studies. Report prepared for Janes Freedman Kyle Law Corporation, 22 August 2010; also see Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use.

[9] Tanner quoted in Elias 2010: Patterns of Mikisew Cree Land and Resource Use: 28.

[10] Elias 2010: Patterns of Mikisew Cree Land and Resource Use: section 4; also see Centre for Indigenous Environmental Resources (nd). *Sagow Pimachiwhin. Plants and Animals Used by Mikisew Cree First Nation for Food, Medicine and Materials* (Public Version).

[11] Elias 2010: Patterns of Mikisew Cree Land and Resource Use: 40; Elias 2011: 2.

[12] Centre for Indigenous Environmental Resources (nd). *Sagow Pimachiwhin. Plants and Animals Used by Mikisew Cree First Nation for Food, Medicine and Materials* (Public Version).

The Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs are distant from the traditional lands of the MCFN. No specific information was identified that described or documented current use by MCFN members of lands and resources within the Current Use of Lands and Resources (Wildlife Resources) or Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs for other traditional activities.

3. What is your understanding of the exercise of asserted Aboriginal rights or treaty rights by the MCFN within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs?

MCFN consider the terms of Treaty 8 and the promises made by the Treaty 8 Commissioners at the time of the signing to be the basis of the relationship between MCFN and non-Aboriginal people. MCFN assert that Treaty 8 protected their livelihood in relation to the lands and waters encompassed by the treaty. [13]

The Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs are distant from the traditional lands of the MCFN. One of the main concerns of the MCFN is the ability to continue to exercise their Aboriginal and treaty rights well into the future.[14] The MCFN assert that the scale and number of resource developments in MCFN territory has already limited the ability of MCFN members to exercise these rights.[15]

4. Identify past, current and reasonably anticipated future use of lands and resources by MCFN members for traditional purposes who may be adversely impacted by the Project within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs.

No past or current use of lands and resources by MCFN members within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs has been identified, nor has any information been identified relating to reasonably anticipated future use of lands and resources within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs by MCFN members.

[13] Candler et al] (2012): 31.

[14] Elias 2010: Patterns of Mikisew Cree Land and Resource Use: v, 19.

[15] Elias 2010: Patterns of Mikisew Cree Land and Resource Use: 20. Elias provides an overview of events in the twentieth and twenty-first centuries that have impacted and changed MCFN patterns of land and resource use (Section 2.3).

The MCFN have the same concerns as the ACFN relating to the potential impacts of the Project on MCFN uses of the lower Peace River and the Peace-Athabasca Delta region.[16] MCFN further assert that their uses of these areas in their traditional territory, including for water based travel, fishing, harvesting of aquatic and riparian plants, harvest of aquatic fur mammals, hunting of migratory birds, and hunting of other species such as moose that rely upon delta ecosystems, rely upon the flow of the Peace River and seasonal high water, especially in spring.[17] The MCFN are concerned that the potential impacts of the Project, including changes in downriver water flow and reductions in spring flooding and ice damming, may adversely affect their traditional activities.[18]

5. In the TLUS, is there any information relating to the exercise of asserted Aboriginal or treaty rights outside the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs?

As noted earlier, Elias aggregated the data from six MCFN TLUS reports, and produced maps which depict the extent of MCFN traditional use activities over at least four generations (Figure 4).[19] Other maps from this study depict the geographic extent of MCFN Travel Routes and Habitation Sites (Figures 5 and 6).[20]

The MCFN did not conduct a TLUS for the Project. MCFN (with ACFN) did submit a Desktop Study of MCFN (and ACFN) knowledge and use related to the Project which was funded by BC Hydro.[21] The Study Area for the Desktop Report was the section of the Peace River from the western edge of Wood Buffalo National Park to the junction of the Peace and Slave Rivers in the east.[22]

Three thousand four hundred and sixty-two (3,462) MCFN site specific values were identified in the review and mapped.[23] The site specific values identified were:

---

[16] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 17.

[17] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 18.

[18] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 18, 19.

[19] Elias, Peter Douglas (2010). Description, Analysis and Synthesis of Six Traditional Land Use Studies: 28

[20] Elias 2010. Description, Analysis and Synthesis of Six Traditional Land Use Studies; Elias 2010: Patterns of Mikisew Cree Land and Resource Use.

[21] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report.

[22] The Study Area included a buffer of 5 kilometres on either side of the Peace River.

[23] A site specific value is defined in the Report as an identifiable location of a First Nation use (eg. kill site) that anchors a wider practise of livelihood on the land (Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 6). The site specific values are depicted as points, lines, or polygons with a 1 kilometre surrounding buffer on the map. Points were also randomized by 250 metres (Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with

subsistence (2,390), habitation (690), cultural/spiritual (359), transportation (15), and environmental (8).[24] No details of the nature of the site specific values are provided in the Desktop Report. The majority of values were located in the area of the MCFN Reserve at Peace Point on the Peace River and to the east in the Study Area. The study author noted that MCFN members who live on the Little Red River Cree Reserve at Garden River (located at the western edge of the Study Area) have never been interviewed, and that is a limitation of the study.[25] MCFN use of the Peace River is active today.[26]

Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 7).

[24] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 15.

[25] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 12. No further information is provided as to the number of MCFN members, nor on their relationship with the Little Red River Cree First Nation.

[26] Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report: 9.

Figure 1: Map Depicting Distribution of the Cree and Chipewyan in ca. 1800 (Map 1 in Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use: 4).

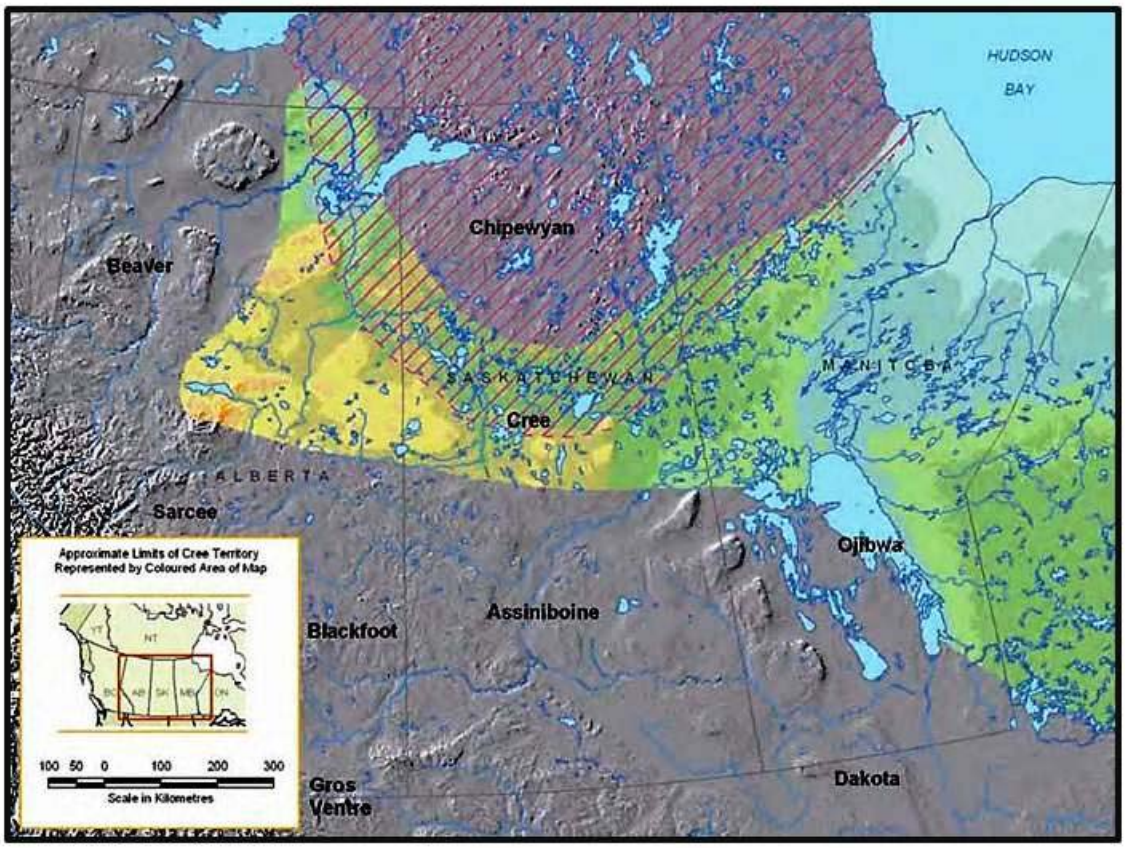


Figure 2: Map Depicting Annual Rounds of the Cree and Chipewyan in the Nineteenth Century (Map 2 in Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use: 6).

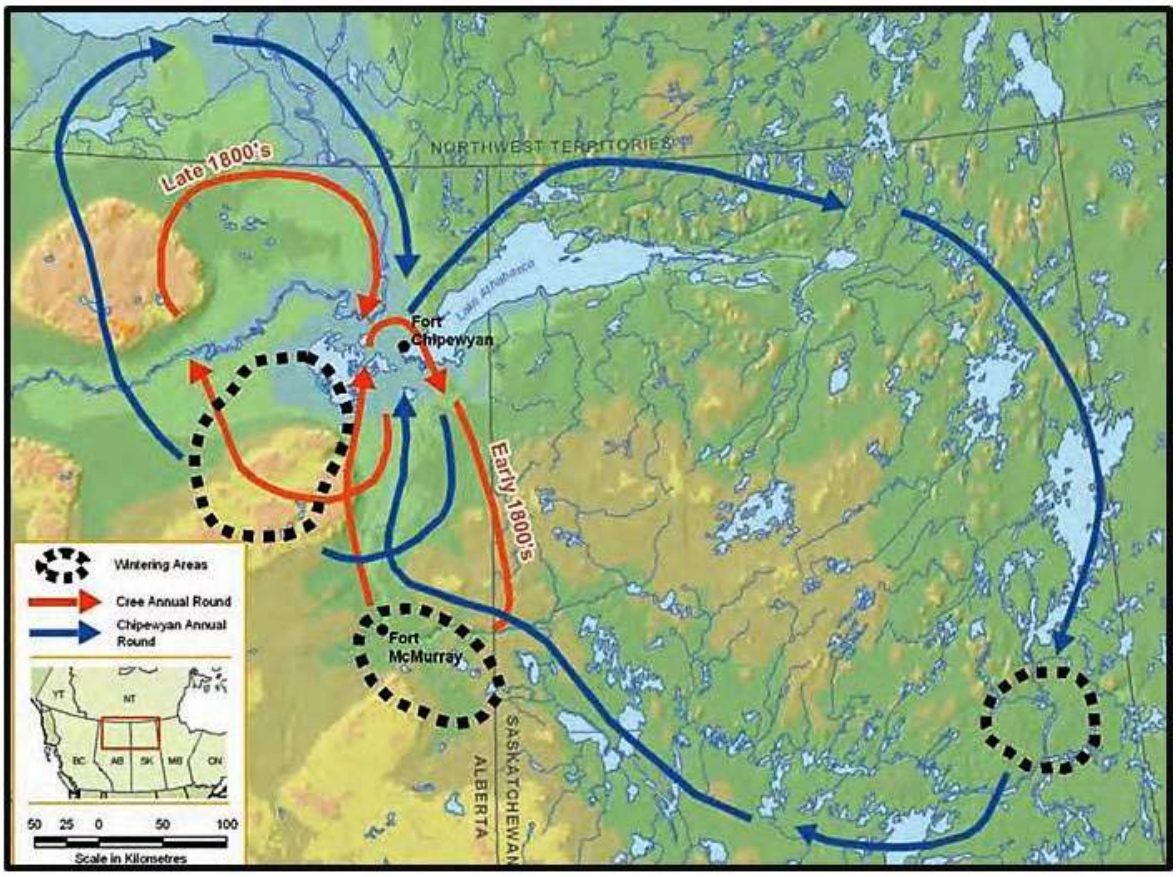


Figure 3: MCFN Indian Reserves (Portion of Map 5 in FMA Heritage Resources Consultants Inc. (2007). Mikisew Cree First Nation Traditional Ecological Knowledge Report: 12).

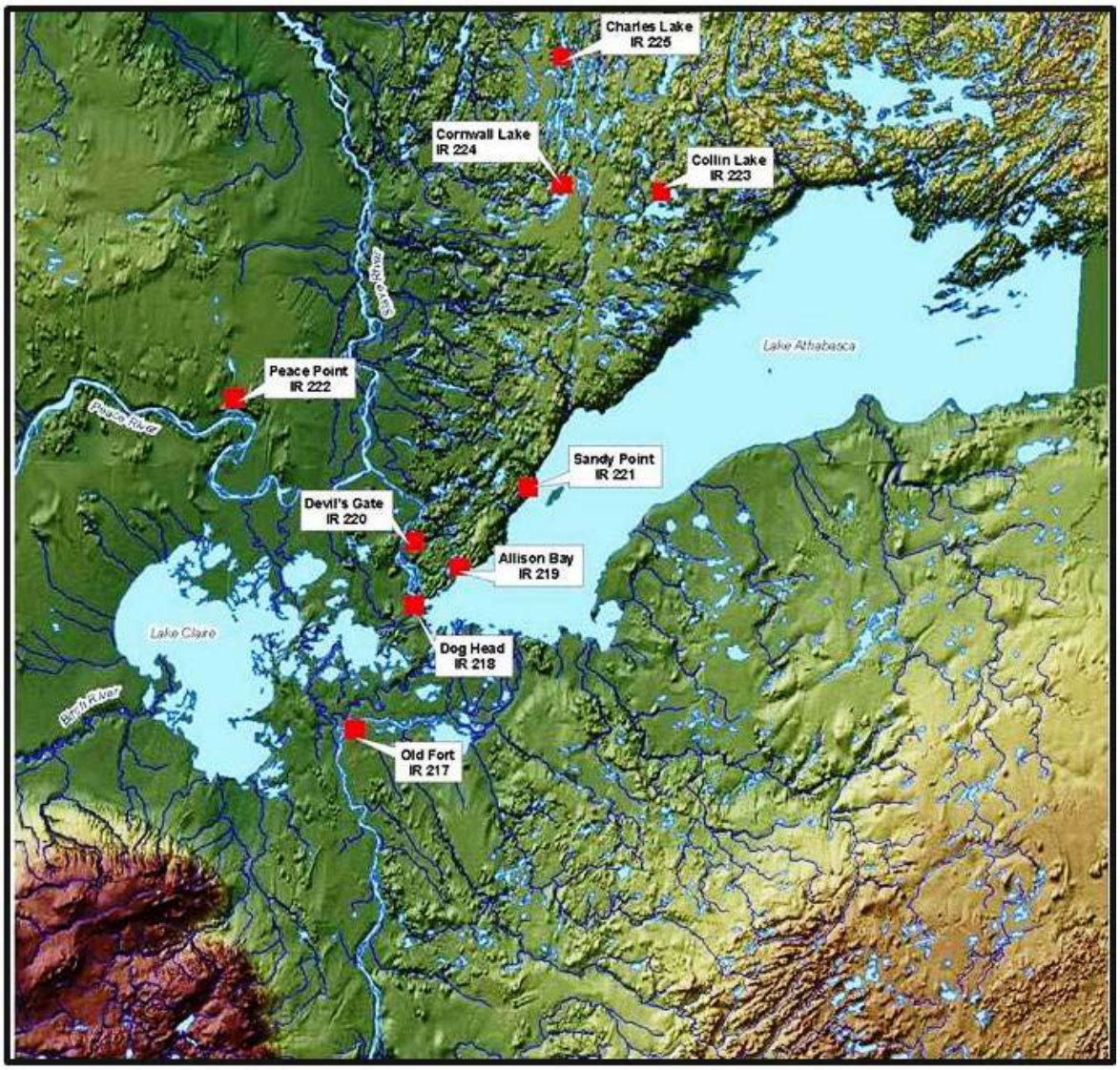


Figure 4. Composite Map Showing All MCFN Use Sites from Six TLUS Reports (Map 7 in Elias, Peter Douglas (2010). Description, Analysis and Synthesis of Six Traditional Land Use Studies: 30).

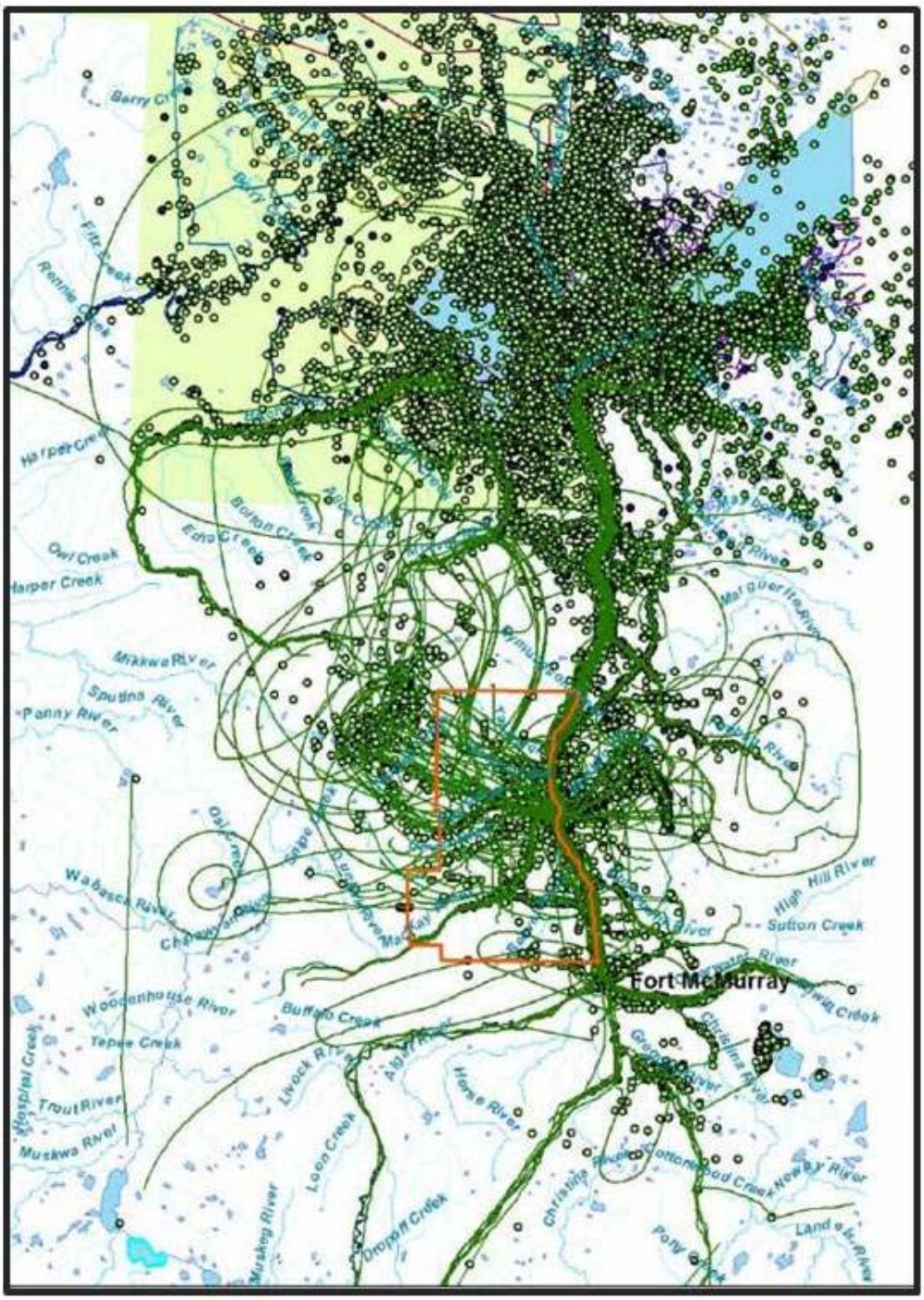


Figure 5. Map Depicting the Extent of MCFN Travel Routes (Map 6 in Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use: 34).

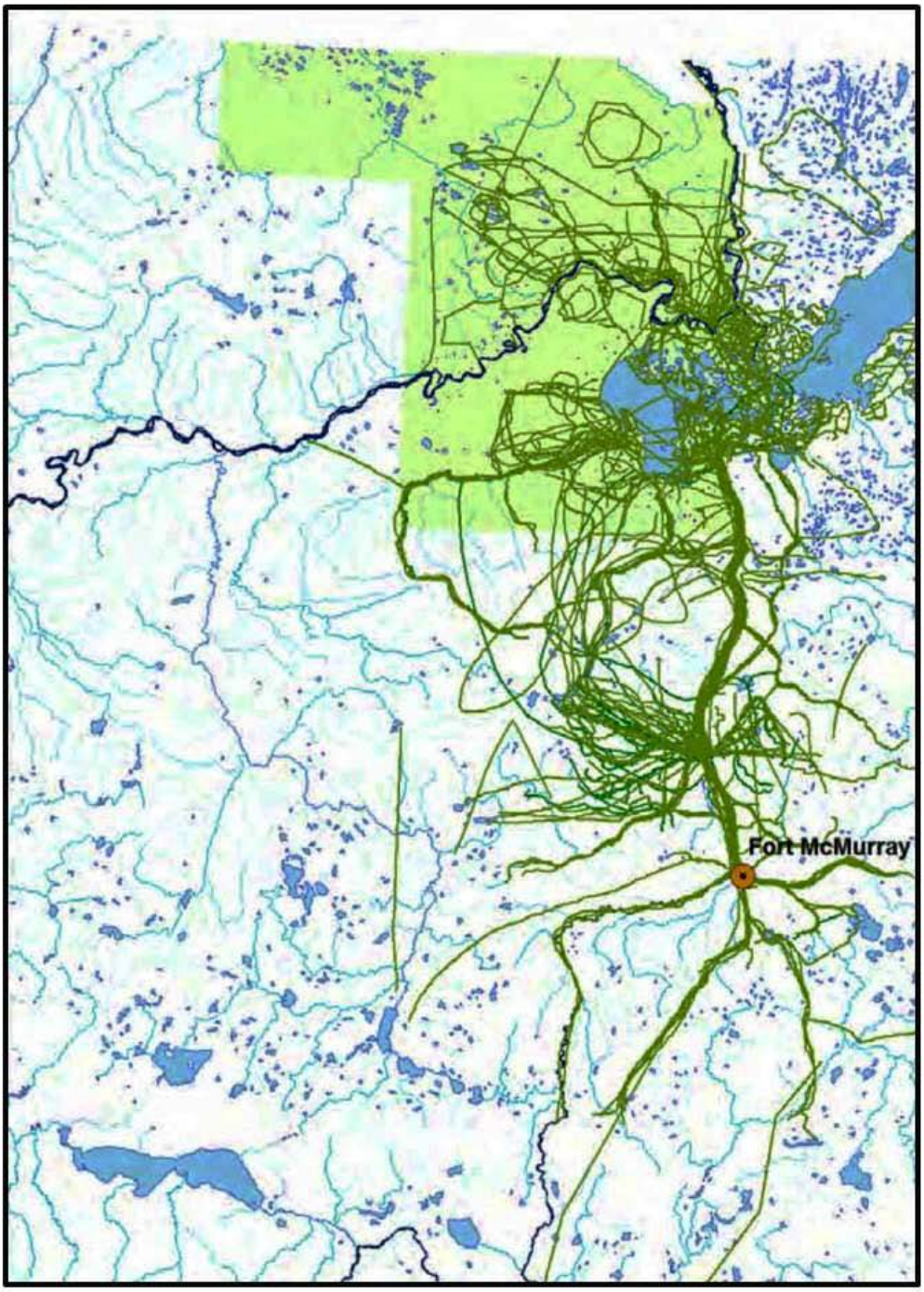
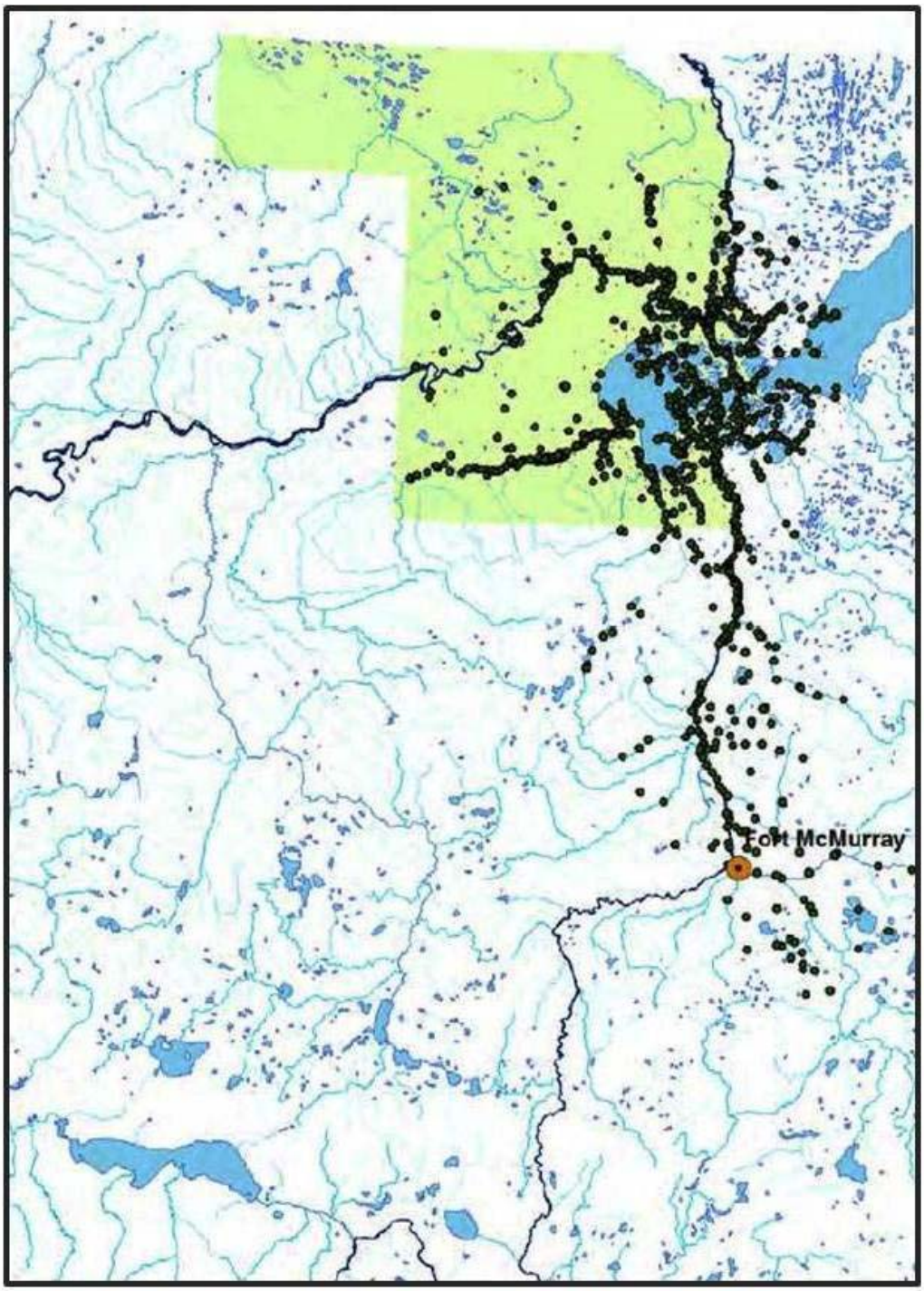


Figure 6. Map Depicting MCFN Habitation Sites (Map 5 in Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use: 33).



References

Aboriginal Affairs and Northern Development Canada (2012). Website. http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNMain.aspx?BAND_NUMBER=461&lang=eng (accessed 4 December 2012).

Candler, Craig, Rachel Olson, Steven LeRoy and Firelight Group Research Cooperative [Candler at al] (2010). *As Long as the River Flows: Athabasca River Knowledge, Use and Change.* With Athabasca Chipewyan First Nation and Mikisew Cree First Nation. Edmonton: Parkland Institute, University of Alberta, November 26, 2010.

Candler, Craig and Firelight Group Research Cooperative with Mikisew Cree First Nation [Candler et al] (2012). Mikisew Cree First Nation Indigenous Knowledge and Use Report and Assessment. Report for Shell Canada's Proposed Jackpine Mine Expansion, Pierre River Mine and Redclay Compensation Lake, February 15, 2012.

Candler, Craig, Steve LeRoy and the Firelight Research Cooperative with Mikisew Cree First Nation and Athabasca Chipewyan First Nation (2012). MCFN and ACFN Desktop Knowledge and Use Report for BC Hydro's Proposed Site "C" Dam Project. December 28, 2012.

Centre for Indigenous Environmental Resources (nd). *Sagow Pimachiwhin. Plants and Animals Used by Mikisew Cree First Nation for Food, Medicine and Materials* (Public Version). Winnipeg.

Elias, Peter Douglas (2010). Description, Analysis and Synthesis of Six Traditional Land Use Studies. Report prepared for Janes Freedman Kyle Law Corporation, 22 August 2010.
Elias, Peter Douglas (2010). Patterns of Mikisew Cree Land and Resource Use. Report prepared for Mikisew Cree First Nation, November 9, 2010.

Elias, Peter Douglas (2011). Mikisew Cree Use of Lands and Resources in the Vicinity of Shell - Jackpine and Shell - Pierre River Operations. Report prepared for Mikisew Cree First Nation, January 11, 2011.

FMA Heritage Resources Consultants Inc. (2007). Mikisew Cree First Nation Traditional Ecological Knowledge Report. Synenco Energy Inc. Northern Lights Oil Sands Development. Report prepared for Mikisew Cree First Nation on behalf of Synenco Energy Inc., May 2007.

Labour, Jocelyn (2007). Mikisew Cree First Nation Traditional Environmental Knowledge. Summary Report for the Total Joslyn North Project Regulatory Hearing prepared for Mikisew Cree First Nation.

McCormack, Patricia (2010). An Ethnohistory of the Mikisew Cree First Nation. Research report prepared for Janes Freedman Kyle Law Corporation, 20 August 2010.

Smith, James G.E. (1981). "Western Woods Cree." In June Helm, editor. *Subarctic. Volume 6, Handbook of North American Indians.* Washington, D.C.: Smithsonian Institution, pages 256-270.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A18 PART 4

ABORIGINAL SUMMARY: MIKISEW CREE FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

<contact information removed>

Prepared by:

Site C First Nations Engagement Team

<contact information removed>

January 2013

Mikisew Cree First Nation

As required by Section 20.8 of the EIS Guidelines, the following summary presents BC Hydro's understanding of Mikisew Cree First Nation's asserted or established Aboriginal rights and treaty rights, and other Aboriginal interests potentially impacted by, and concerns with respect to, the Project. The summary also provides BC Hydro's understanding of the potential adverse effects of the Project on the treaty rights and interests of Mikisew Cree First Nation.

Mikisew Cree First Nation's Treaty Rights

Section 35(1) of the Constitution recognized and affirmed treaty rights of Aboriginal groups. Treaty 8 was entered into in 1899 and guarantees the First Nation signatories the "right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered" subject to two limitations: (i) "such regulations as may from time to time be made by the Government of the country," and (ii) "saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes."

The following Aboriginal groups listed in Table 34.1 of Volume 5 Section 34 Asserted or Established Aboriginal Rights and Treaty Rights, Aboriginal Interests and Information Requirements are signatories or adherents to Treaty 8: Blueberry River First Nations, Fort Nelson First Nation, McLeod Lake Indian Band, Saulteau First Nations, Doig River First Nation, Halfway River First Nation, Prophet River First Nation, West Moberly First Nations, Athabasca Chipewyan First Nation, Beaver First Nation, Dene Tha' First Nation, Duncan's First Nation, Horse Lake First Nation, Little Red River Cree Nation, Mikisew Cree First Nation, Smith's Landing First Nation, Sturgeon Lake Cree Nation, Tallcree First Nation, Woodland Cree First Nation, Deninu K'ue First Nation, and Salt River First Nation.

For a more thorough discussion of rights under Treaty 8, see Section 34.3.2.1 of Volume 5 Section 34 Asserted or Established Aboriginal Rights and Treaty Rights, Aboriginal Interests and Information Requirements.

Mikisew Cree First Nation's Concerns with Respect to the Project

The following table presents a high-level description of the concerns identified by Mikisew Cree First Nation in consultation activities with BC Hydro between November 1, 2007 and November 30, 2012, including those identified in meetings, phone calls, letters, emails, reports, and any submissions made during the comment periods for the EIS Guidelines.

Cumulative Effects
Concern regarding the Project's potential contribution to the cumulative impacts of development in the region, including pipelines, logging, oil and gas, coal mining and coal bed methane.
Interest in using a pre-development, pre-industrial or pre-W.A.C. Bennett Dam baseline in order to assess the cumulative environmental effects of the Project, and to assess the cumulative implications of the Project on the exercise of section 35(1) rights.
Water – Surface Water Regime
Concern about potential downstream impacts of the Project on water flow and water levels, including in the Peace River, Slave River, McKenzie River, Salt River and the Peace Athabasca Delta.
Interest in extending the scope of the spatial boundaries for downstream studies to ensure that all potential downstream effects, as far as the Peace Athabasca Delta and/or the Great Slave Lake are included in the scope of the effects assessment.
Interest in how the operation of the existing facility at the W.A.C. Bennett Dam would change with the addition of the Project to BC Hydro's system. Interest in the shifting operating regime of the W.A.C. Bennett and Peace Canyon dams should the Project be constructed.
Interest in steps taken by BC Hydro to consider climate change in the Project planning, particularly in regards to future changes in hydrology. Interest in how climate change considerations would be factored into the various studies being undertaken, including modeling of water levels.
Interest in how BC Hydro was expecting to adjust its operation of the W.A.C. Bennett dam due to climate change in the future.
Assertion that the changes in the water regime of the Peace-Athabasca Delta occasioned by the construction of the Bennett Dam and associated facilities will be perpetuated and reinforced by the Project.
Water – Thermal and Ice Regime
Concern about the potential effects of the Project on ice flow, ice formation, ice break-ups and ice bridges, including of the ice bridges at Shaftesbury, Dunvegan and Carcajou.
Water – Fluvial Geomorphology and Sediment Transport
Concerns about the potential effects of the Project on sediment transport.
Wildlife Resources
Concern about the potential impacts of the Project on wildlife, wildlife habitat and biodiversity.

Current Use of Lands and Resources for Traditional Purposes
Concerns about the potential effects of the Project on fishing, including access, water flow, water levels and habitat.
Interest in collecting baseline traditional knowledge. Interest in incorporating traditional knowledge into the environmental assessment.
Asserted or Established Aboriginal Rights
Concern that BC Hydro didn't agree to fund a Traditional Land Use Study or Traditional Ecological Knowledge Study for some Aboriginal groups located downstream of the Project.
Treaty Rights (Hunting, Fishing and Trapping)
Concern about the potential impacts of the Project on Treaty 8 rights.
Aboriginal Interests – Aboriginal Culture and Way of Life
Concern about the potential impacts of the Project on future generations and families, including: - Impacts to opportunities for the transmission of Aboriginal languages - Loss of capacity to pass on and receive traditional knowledge
Concern with the maintenance of, or impacts to, opportunities for the transmission of customary law.
Aboriginal Interests – Existing Hydroelectric Projects on the Peace River
Assertion that the W.A.C. Bennett and Peace Canyon dams impacted and/ or continue to impact the Treaty 8 First Nations downstream, including on the Peace River, Slave River, the Peace Athabasca Delta and the Slave River Delta, including their ability to exercise section 35(1) rights.
Opposition to the Project while past grievances related to the Peace Canyon and W.A.C. Bennett Dams remain outstanding Interest in addressing past grievances as part of the Project consultations

These concerns are presented in an issues tracking table under Volume 1 Appendix H Aboriginal Information, Distribution and Consultation Supporting Documentation, which outlines BC Hydro's consideration and/or response to the concern or provides a reference to where the concern is considered or responded to in the EIS.

Potential Adverse Effects of the Project on Mikisew Cree First Nation's Treaty Rights

Based on the assessment undertaken by BC Hydro and set out in Volume 3 Section 19 Current Use of Lands and Resources for Traditional Purposes, it is BC Hydro's understanding that the Project will have no adverse effects on the current use of lands and resources for traditional purposes of the Mikisew Cree First Nation.

Volume 5 Section 34 Asserted or Established Aboriginal Rights and Treaty Rights, Aboriginal Interests and Information Requirements presents BC Hydro's assessment of the potential impacts of the Project on the exercise of asserted or established Aboriginal rights

and treaty rights of the 29 Aboriginal groups with which BC Hydro was instructed to consult. Based on that assessment, it is BC Hydro's understanding that the Project will have no adverse impacts on the exercise of treaty rights by the Mikisew Cree First Nation.

Consultation is ongoing between BC Hydro and the Mikisew Cree First Nation, and may yield additional information on the Mikisew Cree First Nation's current and reasonably anticipated future use of lands and resources that may potentially be affected by the Project. Should Mikisew Cree First Nation provide additional information to BC Hydro, it will be considered and incorporated in the effects assessment during the EIS review phase and prior to submission of the EIS to the Joint Review Panel.