SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A01 PART 1

COMMUNITY SUMMARY:
ATHABASCA CHIPEWYAN FIRST NATION

FINAL REPORT

Prepared for:
BC Hydro Power and Authority
<contact information removed>

Prepared by:
Fasken Martineau
<contact information removed>

January 2013

Athabasca Chipewyan First Nation

Athabasca Chipewyan First Nation (ACFN) has eight reserves with a combined area of 34,767 ha.[1] The reserves are located near the southwestern tip of Lake Athabasca, across the lake from Fort Chipewyan, and on the Athabasca River.[2] Fort Chipewyan is ACFN's administrative base. 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).[3]

As of November 2012, ACFN has a registered population of 1,064, including 824 members living off-reserve.[4] ACFN has a Chief and four Councillors, and follows a custom electoral system.[5] ACFN is a member of the Athabasca Tribal Council (with Mikisew Cree First Nation, Chipewyan Prairie First Nation, Fort McKay First Nation, and Fort McMurray No. 468 First Nation).[6]

ACFN owns and operates several business entities structured under an umbrella organization, the ACFN Business Group. The Business Group's mission is to "[create] meaningful employment for the members of the Athabasca Chipewyan First Nation by establishing effective and profitable businesses."[7] It is made up of 17 wholly owned businesses and joint ventures, which specialize in providing services to the oil and gas industry (including heavy and light duty maintenance services, waste management and recycling, and facilities maintenance and janitorial cleaning).[8] The Business Group is based in Fort McMurray, occupying a 44,000 sq. ft. office complex and a 21,000 sq. ft. maintenance facility.[9]

Historical background

ACFN members speak Athabascan and call themselves K'ai Taile Dene, meaning "people of the land of the willow."[10]

Ancestors of ACFN members signed Treaty 8 at Fort Chipewyan in 1899.[11]

In subsequent years, they continued to follow their previous way of life, with minimal interference from government officials and non-Indians. In 1922, following an influx of

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[1] Aboriginal Affairs and Northern Development Canada (AANDC). 2012. First Nation Detail, *Athabasca Chipewyan First Nation.* Available at: http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNReserves.aspx?BAND_NUMBER=463&lang=eng. Accessed: December 2012 ("AANDC, Athabasca Chipewyan 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 ("ATC, Athabasca Chipewyan First Nation").

[3] ATC, Athabasca Chipewyan First Nation.

[4] AANDC, Athabasca Chipewyan First Nation

[5] AANDC, Athabasca Chipewyan First Nation

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

[7] ACFN Business Group. 2012. *About*. Available at: http://acfnbusinessgroup.com/about. Accessed: December 2012 ("ACFN Business Group, About").

[8] ACFN Business Group, About.

[9] The Canadian Business Journal. 2011. *ACFN Business Group*. George Media Inc. Available at: http://www.cbj.ca/business_in_action/oct_11/acfn_business_group.html. Accessed: December 2012.

[10] Athabasca Chipewyan First Nation. 2012. *About the Athabasca Chipewyan First Nation*. Available at: http://www.acfn.com/#!about-us/cz60. Accessed: December 2012 ("ACFN, About").

[11] ACFN, About.

non-Indian trappers, the band requested that reserve land be set aside for them, expressing a preference for land in the Peace-Athabasca Delta.[12] In 1931, the band was allocated seven small reserves (IR 201A to 201G), including five reserves on the south shore of Lake Athabasca at the eastern edge of the Peace-Athabasca Delta, and two sites on the Athabasca River (Point Brule and Poplar Point). In 1937, ACFN was allocated a large reserve in the Peace-Athabasca Delta (IR 201) covering 20,072 hectares. IR 201 was officially established as an Indian reserve by Order-in-Council in 1954.[13]

Traditional Territory Map

No map was provided to BC Hydro by Athabasca Chipewyan First Nation.

[12] Indian Claims Commission (ICC). 1998. *Athabasca Chipewyan First Nation Inquiry Report, W.A.C. Bennett Dam and Damage to Indian Reserve 201 Claim*. Ottawa, ON ("ICC, Athabasca Chipewyan Inquiry") at 137–138.
[13] ICC, Athabasca Chipewyan Inquiry at 140–141.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A01 PART 2

BC HYDRO CONSULTATION SUMMARY: ATHABASCA CHIPEWYAN 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.

ATHABASCA CHIPEWYAN 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
"IRC"	Industry Relations Corporation, a department of the Athabasca Chipewyan First Nation
"JFK Law"	Janes Freedman Kyle Law Corporation, legal counsel for Athabasca Chipewyan First Nation, Mikisew Cree First Nation and Dene Tha' First Nation
"GIS"	Geographic Information Systems
"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	Site C Clean Energy Project, *Potential Downstream Changes* (BC Hydro, May 2012)

"Downstream Report"	
"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 Athabasca Chipewyan First Nation and BC Hydro, dated March 30, 2012

Key Events

2007

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

2008

- June:
  - Representatives of BC Hydro and Athabasca Chipewyan held an introductory meeting. BC Hydro provided an overview of the Project, and the parties discussed Athabasca Chipewyan's historical grievances related to the impacts of the existing W.A.C. Bennett and Peace Canyon dams on the PAD, and the potential incremental impacts of the Project on water levels in the PAD.
  - Athabasca Chipewyan advised BC Hydro that its Industry Relations Corporation would be coordinating the consultation process for the Project.

2009

- February: BC Hydro met with representatives of Athabasca Chipewyan to provide a Project update. Athabasca Chipewyan advised that its Chief and Council were opposed to the Project, and suggested that it would only engage in consultations if BC Hydro was first able to resolve outstanding issues with other First Nations, particularly the outstanding litigation with Mikisew Cree.

2010

- April:
  - BC Hydro advised Athabasca Chipewyan 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.
  - BC Hydro met via teleconference with representatives of Athabasca Chipewyan. Athabasca Chipewyan requested that BC Hydro hold an information session with the community, and inquired if BC Hydro could bring a hydrologist to the meeting to discuss impacts on the PAD. BC Hydro agreed to visit Fort Chipewyan to attend a community meeting.
- June/July: The parties exchanged correspondence regarding the next steps in the consultation process. Athabasca Chipewyan agreed to continue consultation with BC Hydro with a view to entering into a Stage 3 consultation agreement, but expressed concern that BC Hydro had not resolved the outstanding issues with Mikisew Cree. BC Hydro agreed to provide Athabasca Chipewyan with a draft Stage 2 consultation agreement as soon as it was available.
- September/December: BC Hydro provided Athabasca Chipewyan with a draft Stage 3 consultation agreement, and Athabasca Chipewyan expressed interest in scheduling a meeting to discuss the draft in the New Year.

2011

- March: BC Hydro provided Athabasca Chipewyan 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 Athabasca Chipewyan that it had submitted the Project Description Report and provided a link to the report.
- September:
  - BC Hydro met with 40 members of the Athabasca Chipewyan Elders Committee.

BC Hydro provided an overview of the Project and responded to questions.

- BC Hydro wrote to Athabasca Chipewyan and responded to an information request regarding the time period for reservoir filling. BC Hydro expressed interest in developing a Stage 3 consultation agreement and offered to meet with Athabasca Chipewyan's Chief and Council to provide a Project update.

2012

- February:
  - BC Hydro wrote to Athabasca Chipewyan 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 Athabasca Chipewyan to review the interim results.
  - BC Hydro met with representatives of Athabasca Chipewyan to provide an update on the regulatory process and review the draft Stage 3 consultation agreement (provided to Athabasca Chipewyan in September 2010). Athabasca Chipewyan agreed to review the draft agreement and provide comments.
- March: BC Hydro and Athabasca Chipewyan finalized and executed the *Stage 3 Consultation Agreement*, dated March 30, 2012. The agreement established the principles, process, scope, and funding parameters for consultation between BC Hydro and Athabasca Chipewyan in Stage 3. It also provided for a defined consultation project under which BC Hydro would Athabasca Chipewyan with a copy of the Potential Downstream Changes Report (spring 2012), and Athabasca Chipewyan would review and provide feedback on the report (summer 2012).
- April: BC Hydro sent a letter to Athabasca Chipewyan 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:
  - BC Hydro provided Athabasca Chipewyan 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.
  - BC Hydro wrote to Athabasca Chipewyan 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 Athabasca Chipewyan.

- June/July: BC Hydro met with representatives of Athabasca Chipewyan, Dene Tha' and Mikisew Cree, 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 Cree, subsequently wrote to BC Hydro and identified the information requests arising from 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 Athabasca Chipewyan 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 Athabasca Chipewyan 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 Athabasca Chipewyan's current use of lands and resources for hunting fishing and trapping, and other purposes, and information regarding how the Project would affect Athabasca Chipewyan'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 (representing Athabasca Chipewyan) 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 effects 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 Athabasca Chipewyan 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 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.
  - BC Hydro wrote to Athabasca Chipewyan and provided a draft Technical Data Reports for the Reservoir Temperature and Ice Regime and the Downstream Ice Regime as requested.

Chronology of Events

On November 21, 2007, BC Hydro sent an introductory letter to Athabasca Chipewyan 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.

On April 10, 2008, BC Hydro sent a letter to Athabasca Chipewyan in follow up to BC Hydro's letter of November 21, 2007. 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 engagement with Treaty 8 First Nations in Alberta and the Northwest Territories in May and June, and would contact Athabasca Chipewyan to set up an introductory meeting. The letter enclosed the Stage 1 Summary Report.

On June 4, 2008, BC Hydro sent a letter to Athabasca Chipewyan advising that BC Hydro had met with several Treaty 8 First Nations in Alberta and was actively arranging additional meetings. The letter advised that Athabasca Chipewyan had been added to BC Hydro's

contact list and would be receiving correspondence related to the Project. The letter advised that BC Hydro would contact Athabasca Chipewyan in the near future to request an introductory meeting and, if appropriate, to develop a plan for future consultation. The list attached previous letters dated November 21, 2007, and April 10, 2008, as well as a list of Alberta First Nations contacted to date.

On June 10, 2008, BC Hydro met with representatives of Athabasca Chipewyan (Chief, Councillor, others) for an introductory meeting. BC Hydro provided an overview of the Project, and the parties discussed Athabasca Chipewyan's historical grievances related to the impacts of the existing W.A.C. Bennett and Peace Canyon dams on the PAD, and the potential incremental impacts of the Project on water levels in the PAD. BC Hydro provided Athabasca Chipewyan with a copy of a map titled "Peace Canyon to the Site C Dam Site with reservoir overlay".

On June 19, 2008, BC Hydro sent a letter to Athabasca Chipewyan further to the meeting of June 10, 2008, and in response to Athabasca Chipewyan's concerns about potential impacts on the PAD. The letter explained that the Project was still in its very early stages, with a decision to proceed still years away, and that further studies would be needed to fully understand the potential downstream impacts. The letter stated that BC Hydro was committed to more in-depth discussions with Athabasca Chipewyan in the near future.

On June 23, 2008, Athabasca Chipewyan sent a letter to BC Hydro advising that Athabasca Chipewyan's Industry Relations Corporation would be coordinating the consultation process for the Project. The letter requested that BC Hydro provide Athabasca Chipewyan with copies of Project feasibility studies.

On June 23, 2008, BC Hydro sent an email to Athabasca Chipewyan providing links to the following information:

- Site C's general website, containing documents, historical reports, and maps;
- Overview of Stage 2 field studies;
- Stage 1 Completion Report; and,
- Stage 1 Summary Report.

On February 20, 2009, BC Hydro met with representatives of Athabasca Chipewyan (Chief, Chief Executive Officer, others). BC Hydro provided a status update on progress made since the previous meeting on June 10, 2008. Athabasca Chipewyan made a request for funding to support a five-year feasibility study to address issues affecting the PAD, such as declining water levels, impacts of development around Fort McMurray, and new

developments on the Peace River including Site C. BC Hydro indicated that discussion on PAD-related issues would have to involve a different team from BC Hydro. Athabasca Chipewyan stated that it was willing to work with BC Hydro on the Project, but only after BC Hydro had settled any issues with Salt River First Nation, Smith's Landing First Nation, Mikisew Cree First Nation and West Moberly First Nations, in particular the outstanding litigation with Mikisew Cree First Nation. Athabasca Chipewyan indicated that its Chief and Council were opposed to the Project.

On April 19, 2010, BC Hydro sent an email to Athabasca Chipewyan 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 April 20, 2010, BC Hydro met via teleconference with representatives of Athabasca Chipewyan (IRC Director, Project Manager, and IRC staff). Athabasca Chipewyan advised that the IRC office was set up to facilitate consultation and requested that communications be directed to the IRC office. BC Hydro described the stages of the Project, and advised that it intended to submit the Project Description Report within the next 12 months. BC Hydro expressed interest in starting discussions with Athabasca Chipewyan around capacity funding and a Stage 3 consultation agreement. BC Hydro agreed to provide a consultation agreement template for Athabasca Chipewyan's consideration, once it had been reviewed internally. Athabasca Chipewyan explained that the community was concerned about BC Hydro's conclusion that none of its projects had caused adverse impacts on water levels at the PAD. BC Hydro advised that it was aware of those concerns, and suggested that the parties had differing points of view on the issue. Athabasca Chipewyan requested that BC Hydro hold an information session with the community, preferably with a hydrologist who could discuss impacts on the PAD. BC Hydro agreed to visit Fort Chipewyan to attend a community meeting. BC Hydro noted that it was engaged with Mikisew Cree on matters related to the Project and the outstanding litigation.

On April 22, 2010, BC Hydro sent an email to Athabasca Chipewyan advising that a package had been sent enclosing the following:

- Stage 1 Completion Report
- Stage 1 Summary Report
- Stage 2 Report: Consultation and Technical Review (BC Hydro, Fall 2009).

On April 22, 2010, Athabasca Chipewyan sent an email to BC Hydro and advised that it wished to be referred to as K'āi tailē Denē (meaning willow people), Denēsuline, or simply Denē, instead of Chipewyan.

On April 27, 2010, Athabasca Chipewyan sent a letter to BC Hydro and reiterated Athabasca Chipewyan's concerns about decreased water levels in the PAD, the amount of development in the region, and the fact that any change in the flow regime on the Peace River would impact Athabasca Chipewyan eventually. The letter noted that the following requests remained outstanding: (a) a five-year feasibility study to address issues affecting the PAD, and capacity to conduct the study, and (b) the need to settle outstanding litigation with Mikisew Cree. The letter indicated that Athabasca Chipewyan would support discussions with BC Hydro related to the Project, once BC Hydro had resolved the outstanding issues with Mikisew Cree.

On June 22, 2010, BC Hydro sent a letter to Athabasca Chipewyan, in response to Athabasca Chipewyan's letter of April 27, 2010. The letter advised that BC Hydro was ready and willing to consult with Athabasca Chipewyan on the Project, and to attend the requested community meeting. The letter sought to clarify whether Athabasca Chipewyan was taking the position that it would not engage with BC Hydro on the Project until the outstanding litigation with Mikisew Cree had been resolved. BC Hydro expressed the view that consultation would be beneficial to both parties and therefore should not be deferred pending the resolution of litigation with Mikisew Cree.

On June 22, 2010, Athabasca Chipewyan sent a letter to BC Hydro in response to BC Hydro's letter earlier that day, and advised that it had decided to continue consultation with BC Hydro regarding the Project, with a view to entering into a *Stage 3 Consultation Agreement*. The letter requested that BC Hydro hold a community meeting in Fort Chipewyan as soon as possible. The letter identified that the following outstanding items: (a) request for a five-year feasibility study to address issues affecting the PAD, and capacity to conduct the study; (b) receipt of a draft consultation agreement template; (c) receipt of the Project Description Report within the next 12 months.

On July 8, 2010, BC Hydro sent a letter to Athabasca Chipewyan, in response to Athabasca Chipewyan's letter of June 22, 2010, and advised that it was pleased with Athabasca Chipewyan's decision to continue consulting with BC Hydro on the Project. The letter advised that BC Hydro was currently developing and refining the consultation process and agreements for the Project, and expected this work to be completed within 6 to 8 weeks. The letter proposed that a community information meeting be held in early September, and expressed interest in discussing a draft consultation agreement and other items identified by Athabasca Chipewyan in its letter of June 22, 2010.

On July 14, 2010, Athabasca Chipewyan sent a letter to BC Hydro's in response to BC Hydro's letter of July 8, 2010. The letter expressed support for BC Hydro's proposal to hold a community information meeting in early September, and proposed that Elders also be invited to the meeting. The letter requested that BC Hydro provide a copy of the draft consultation agreement to Athabasca Chipewyan prior to the next meeting.

On July 15, 2010, BC Hydro sent a letter to Athabasca Chipewyan in response to Athabasca Chipewyan's letter of the previous day. BC Hydro stated that it welcomed the opportunity to meet with the Elders, and would provide Athabasca Chipewyan with a draft consultation agreement as soon as it was available.

On September 23, 2010, BC Hydro wrote a letter to Athabasca Chipewyan, further to BC Hydro's letter of July 15, 2010, and attached a draft Stage 3 consultation agreement for Athabasca Chipewyan's review and consideration. BC Hydro requested a meeting with Athabasca Chipewyan to discuss the draft agreement and provide an update on the Project.

On December 9, 2010, Athabasca Chipewyan sent a letter to BC Hydro in response to BC Hydro's letter of September 23, 2010. The letter advised that Athabasca Chipewyan had reviewed and identified issues with the draft Stage 3 consultation agreement, and expressed interest in scheduling a meeting with BC Hydro to discuss the consultation agreement, and a community meeting with the Elders, in the New Year.

On March 15, 2011, BC Hydro sent a letter to Athabasca Chipewyan advising that BC Hydro was engaged in planning for the upcoming field season of environmental work associated with the Project. The letter indicated that, in order to engage Aboriginal groups in discussion of this work, BC Hydro had prepared summary documents that described proposed studies for the 2011 field season. The letter enclosed a study outline and work plan summary for the Environmental Program: Physical Environment. The letter advised that the purpose of the proposed studies was to characterize baseline environmental conditions, including water levels and flow, flood forecasting, water temperature and ice, sediment transport, microclimate, air quality, noise, greenhouse gases, and contaminated sites. The letter explained that the baseline data would be used to inform the assessment of potential environmental effects associated with the Project. The letter requested input from Athabasca Chipewyan regarding the proposed studies, and explained that they could be changed or revised in scope or timing based on input from the Aboriginal groups. The letter also included links to the following Stage 2 studies:

- 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 (2009).
- Preliminary GHG Emissions Estimate from Construction Materials – Site C Hydro Project. Memo by Jacques Whitford and BC Hydro (2009).

On May 18, 2011, BC Hydro sent a letter to Athabasca Chipewyan 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 September 13, 2011, BC Hydro participated in a community meeting with Athabasca Chipewyan's Elders' committee. The meeting was attended by approximately 40 Elders and two IRC staff members. BC Hydro provided an overview of the Project, and advised that it was engaged in downstream studies that would likely be of interest to Athabasca Chipewyan. BC Hydro responded to questions and concerns raised by the Elders, including historical and current concerns about impacts on the PAD. BC Hydro advised that it would have a better understanding of the potential downstream impacts, once the downstream studies had been completed. BC Hydro provided Athabasca Chipewyan with hard copies of the Project Description Report, Site C Information Sheets, and presentation slides. BC Hydro agreed to follow up with information on the time period for reservoir filling.

On September 26, 2011, BC Hydro sent a letter to Athabasca Chipewyan, further to the meeting with the Elders' committee on September 13, 2011. The letter included a response the information request regarding the time period for reservoir filling, and explained the process of "staged filling". BC Hydro expressed interest in developing a Stage 3 consultation agreement and requested clarification as to when discussions could commence, and offered to meet with Athabasca Chipewyan's Chief and Council to provide a project update.

On September 30, 2011, BC Hydro sent an email to Athabasca Chipewyan 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 21, 2011, BC Hydro sent a letter to Athabasca Chipewyan attaching a cheque for costs associated with the meeting on September 13, 2011.

On November 16, 2011, BC Hydro sent an email to Athabasca Chipewyan attaching a fact sheet about the Project, including an explanation of key Project components.

2012

On February 8, 2012, BC Hydro sent a letter to Athabasca Chipewyan 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 Athabasca Chipewyan to review the interim results or, alternatively, to meet upon completion of the updated report.

On February 24, 2012, BC Hydro met with representatives of Athabasca Chipewyan (IRC Manager, legal advisor). BC Hydro provided an update on the regulatory process for the Project, including the review process for the EIS Guidelines. The parties reviewed the draft Stage 3 consultation agreement (provided to Athabasca Chipewyan in September 2010). Athabasca Chipewyan agreed to review the draft agreement and provide comments. BC Hydro agreed to provide Athabasca Chipewyan with: a list of consultants working on the Downstream Report; the Stage 2 and 3 consultation logs (once completed); and, a list of regulatory authorizations that would be needed to construct the Project.

On March 6, 2012, BC Hydro sent an email to Athabasca Chipewyan responding to information requests arising from the meeting of February 24, 2012, and provided the following:

- A list of persons/consultants working on the updated Downstream Report, and a list of component studies of the Downstream Report;
- A link to the *Review of Potential Downstream Changes from Site C Operations - Preliminary Findings* (October 2009) and a summary version of the report;
- A list of anticipated permits / authorizations required for the report, as identified in the Project Description Report; and
- Consultation logs from Stage 2 and Stage 3 (to date).

On March 29, 2012, BC Hydro met via teleconference with Athabasca Chipewyan's legal counsel to discuss final edits to the draft consultation agreement. Following the teleconference, BC Hydro emailed a revised draft consultation agreement for execution by Athabasca Chipewyan.

On March 30, 2012, Athabasca Chipewyan sent an email to BC Hydro attaching a copy of the final *Stage 3 Consultation Agreement* signed by Athabasca Chipewyan's Chief, and advised that Athabasca Chipewyan would provide the requisite Band Council Resolution to BC Hydro within the next week or so.

- The *Stage 3 Consultation Agreement*, dated March 30, 2012, established the principles, process and scope for consultation between BC Hydro and Athabasca Chipewyan for Stage 3 and provided capacity funding to enable Athabasca Chipewyan to participate in the consultation process. The agreement outlined the respective responsibilities of the parties, specifying that BC Hydro would provide Athabasca Chipewyan with necessary information about the Project, that Athabasca Chipewyan 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 Athabasca Chipewyan would be jointly responsible for identifying strategies to avoid, mitigate, manage or accommodate those potential adverse impacts. The agreement included a work plan for a defined consultation project, under which BC Hydro would provide Athabasca Chipewyan with a copy of the Potential Downstream Changes Report in spring 2012, and Athabasca Chipewyan would review and provide feedback on the report in summer 2012. 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 10, 2012, BC Hydro sent a letter to Athabasca Chipewyan attaching an updated PDF map of the proposed project footprint, and offered access to the associated GIS shape file data. The letter attached a memorandum describing the details of the new or amended information.

On April 23, 2012, BC Hydro sent an email to Athabasca Chipewyan attaching (a) an original copy of the signed *Stage 3 Consultation Agreement*, (b) a capacity funding cheque for costs associated with negotiating the agreement, and (c) two capacity funding cheques issued pursuant to the agreement.

On May 1, 2012, Athabasca Chipewyan sent an email to BC Hydro attaching a copy of the Band Council Resolution which authorized the execution of the *Stage 3 Consultation Agreement*.

On May 4, 2012, BC Hydro sent a letter to Athabasca Chipewyan 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 23, 2012, BC Hydro sent a letter to Athabasca Chipewyan regarding the identification of Valued Components and spatial boundaries for the Environmental Assessment, and expressed its desire to consult further with Athabasca Chipewyan on these issues. 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 expressed interest in receiving feedback from Athabasca Chipewyan regarding the proposed Valued Components and related spatial boundaries

On May 25, 2012, BC Hydro sent a letter to Athabasca Chipewyan 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 Athabasca Chipewyan, Dene Tha', and Mikisew Cree, 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 11, 2012, BC Hydro sent an email to Athabasca Chipewyan attaching BC Hydro's presentation on Potential Downstream Changes.

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. Martin 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 Athabasca Chipewyan, Dene Tha', and Mikisew Cree 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 the 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 Athabasca Chipewyan, Dene Tha' and Mikisew Cree), 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 the information requests. 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 Athabasca Chipewyan, Dene Tha', and Mikisew Cree, sent a letter to BC Hydro in response to BC Hydro's letter of July 20, 2012. The letter stated that much of the information requested about the Potential Downstream Changes Report had not yet been provided. 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, on behalf of Athabasca Chipewyan, Dene Tha', and Mikisew Cree, 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 in the environmental 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, 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 27, 2012, BC Hydro sent a letter to Athabasca Chipewyan 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. The letter provided a link to secured file transfer website where additional information regarding project opportunities had been posted.

On August 29, 2012, JFK Law sent a letter to Fasken Martineau on behalf of Dene Tha', Athabasca Chipewyan and Mikisew Cree 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 to 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 three 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 Athabasca Chipewyan 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 Athabasca Chipewyan, 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 Athabasca Chipewyan 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 Athabasca Chipewyan 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’, Mikisew Cree and JFK Law (representing Athabasca Chipewyan). 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 discussed 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 studies 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 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 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 these concerns forward to the CEA Agency and the BCEAO.

On October 24, 2012, BC Hydro met with Dr. Carver, a hydrology consultant representing Athabasca Chipewyan, Dene Tha' and Mikisew Cree, 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 Site C, 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. Dr. Carver 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 Athabasca Chipewyan advising that BC Hydro had updated the Project footprint map for Site C. The letter noted that in April 2012, BC Hydro had provided Athabasca Chipewyan with the GIS shape file data and/or a PDF map of the Project footprint. The letter advised that the information had since been updated 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 Athabasca Chipewyan, Dene Tha' and Mikisew Cree, further to requests for information arising from 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 Dene Tha', Athabasca Chipewyan and Mikisew Cree, 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 that BC Hydro's 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 advised it 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 Athabasca Chipewyan which sought to address potential gaps in the information exchange between the parties. The letter requested that Athabasca Chipewyan 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 Athabasca Chipewyan, Dene Tha', and Mikisew Cree 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 Athabasca Chipewyan 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, BC Hydro sent an email to Athabasca Chipewyan 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 A01 PART 2(A)

UPDATED BC HYDRO CONSULTATION SUMMARY: ATHABASCA CHIPEWYAN 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>

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.

ATHABASCA CHIPEWYAN 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 Athabasca Chipewyan First Nation, Mikisew Cree 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)
“the Project”	The proposed Site C Clean Energy Project
“TLU”	Traditional Land Use
“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, providing a link 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 Athabasca Chipewyan and Mikisew Cree. 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 Athabasca Chipewyan and Mikisew Cree. 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).

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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. JFK Law identified an incorrect paraphrasing from the Desktop TLU Report in relation to Athabasca Chipewyan. BC Hydro responded via email on the same day stating that it would pass on the comments to the consultants from Traditions Consulting Services Ltd. who authored the Aboriginal Land and Resource Use Summaries.

On January 28, 2013, BC Hydro sent a letter to Athabasca Chipewyan, 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 5, 2013, BC Hydro sent an email to JFK Law providing an overview of the outstanding financial reports from Athabasca Chipewyan and Dene Tha'.

On February 8, 2013, BC Hydro sent an email to JFK Law 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. JFK Law indicated that it would be impossible for Dene Tha' and Athabasca Chipewyan to meet BC Hydro's financial reporting requirements which would hinder the Nations' ability to receive capacity funding, which would restrict the Nations' ability to participate in the Environmental Assessment process. JFK Law suggested that the parties discuss the issue.

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.

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 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, 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 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 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	The influence of the Project on surface water

PAD constitute a 'technically valid concern' with respect to the incremental impact of Site C on the Peace-Athabasca Delta."	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 A01 PART 3

ABORIGINAL LAND AND RESOURCE USE SUMMARY: ATHABASCA CHIPEWYAN 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

Athabasca Chipewyan First Nation (ACFN)

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

The ACFN are a modern First Nation of Chipewyan and Cree ancestry.[3] The ACFN also use the name K'ai Taile Dene, meaning "people of land of the willow." Today, about one-third of the ACFN population of over 1,000 live in the main community at Fort Chipewyan located at the western end of Lake Athabasca. Other communities with ACFN members include Fort McMurray, Fort McKay and Fort Smith. The ACFN have eight Indian Reserves located on the south shore of Lake Athabasca, on the Athabasca Delta, and along the Athabasca River. Most ACFN members live off-Reserve.[4]

ACFN traditional lands (territory) are located in the northeast corner of Alberta and the northwest corner of Saskatchewan, centred around Lake Claire, the western end of Lake Athabasca, and the lower Athabasca River (Figure 1).

1. **What is the ACFN'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?**

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[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.

[3] McCormack, Patricia (2012). An Ethnohistory of the Athabasca Chipewyan First Nation. Research Report prepared for ACFN, 2 September 2012: 3, 79. In the early to mid-1800s, Chipewyan and Cree began to intermarry and as kinsmen had access to one another's traditional lands.

[4] AANDC(2012).Website http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNRegPopulation.aspx?BAND_NUMBER=463&lang=eng (accessed 3 December 2012).

ACFN members hunt a number of large mammals including moose, caribou, bison and black bear; small mammals including snowshoe hare and porcupine; upland birds including various species of grouse and ptarmigan; and waterfowl including various species of geese and ducks. ACFN members also harvest fish including lake whitefish, lake trout, northern pike (jackfish), goldeye, and walleye. ACFN members trap a wide variety of fur bearers for pelts. Beaver and muskrat are also used for food.[5]

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 ACFN. No information was identified that described or documented current use by ACFN members 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 and trapping activities.

2. **What is the ACFN'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?**

The Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs for fish and wildlife are far removed from the traditional lands of the ACFN. No information was identified that described or documented current use by ACFN members 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 other traditional activities.

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

The ACFN view the Treaty 8 agreement, signed by their ancestors in 1899, as a Peace and Sharing Agreement that guarantees ACFN ability, and the ability of future generations, to maintain their distinctive way of life based on the land and resources of their traditional lands.[6] The core area where ACFN members currently exercise their

[5] McCormack 2012: 84, Table 3.
[6] ACFN (2012): Website http://www.acfn.com/# (accessed 3 December 2012).

treaty rights is located within identified ACFN traditional lands (Figure 2).[7] No past or current use 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 by ACFN members was identified.

4. Identify past, current and reasonably anticipated future use of lands and resources by ACFN 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 the RAAs.

No past or current 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 ACFN members 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 ACFN members.

The ACFN assert that the initial BC Hydro dams on the upper Peace River impacted and continue to impact ACFN uses of the lower Peace River and the Peace-Athabasca Delta region.[8] ACFN further assert that their uses of these areas in their traditional territory, including for water based navigation, 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.[9] The ACFN are concerned that the potential impacts of the Project, including changes in down river flow and reductions in spring flooding and ice damming, may adversely affect their traditional activities.[10]

[7] Athabasca Chipewyan First Nation (2003). *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation*: 4.

[8] 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.

[9] 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.

[10] 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.

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?**

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 ACFN.

BC Hydro did not enter into a Traditional Land Use Study agreement with the ACFN. ACFN (with MCFN) did submit a Desktop Study of ACFN (and the MCFN) knowledge and use related to the Project which was funded by BC Hydro.[11] 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. One hundred and seven (107) ACFN site specific values were identified and mapped.[12] The site specific values identified were: subsistence (66), transportation (16), habitation (11), environmental (10), and cultural/spiritual (4).[13] The vast majority of values were located at the eastern end of the Study Area. The study author noted that although very little information was identified regarding ACFN use of the Study Area, ACFN use along the Peace River is ongoing.[14]

The ACFN state that they have used the lands and resources throughout their asserted traditional lands in northeastern Alberta and northwestern Saskatchewan for traditional purposes including hunting, fishing and gathering in the past, continue to do so today and anticipate doing so into the future.[15]

In the ACFN 2003 TLUS Report, two maps of traditional lands used by ACFN ancestors depict: Pre-contact Lands of the *Etthen eldeli Dene* (Figure 3); and ACFN Land Use Areas in the Early 1900s (Figure 4).[16] Other maps from this Report depict locations of

[11] 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] A site specific value is 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).

[13] 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.

[14] 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.

[15] Athabasca Chipewyan First Nation (2003). *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation.*

[16] Athabasca Chipewyan First Nation (2003). *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation*: 30, 50.

current ACFN traditional activities of hunting, fishing, and trapping including: ACFN Big Game Resource Use (Figure 5); ACFN Traditional Waterfowl and Terrestrial Bird Harvesting (Figure 6); ACFN Traditional Fish Harvesting (Figure 7); and Terrestrial Fur Bearers (Figure 8). ACFN registered traplines are depicted on another map (Figure 9).[17]

[17] Athabasca Chipewyan First Nation (2003). *Athabasca Chipewyan First Nation Traditional Land Use Study* (ACFN TLUS): 84, 112, 118, 125.

Figure 1: Athabasca Chipewyan First Nation Traditional Lands (ACFN TLUS 2003: 112, Figure 13.5).

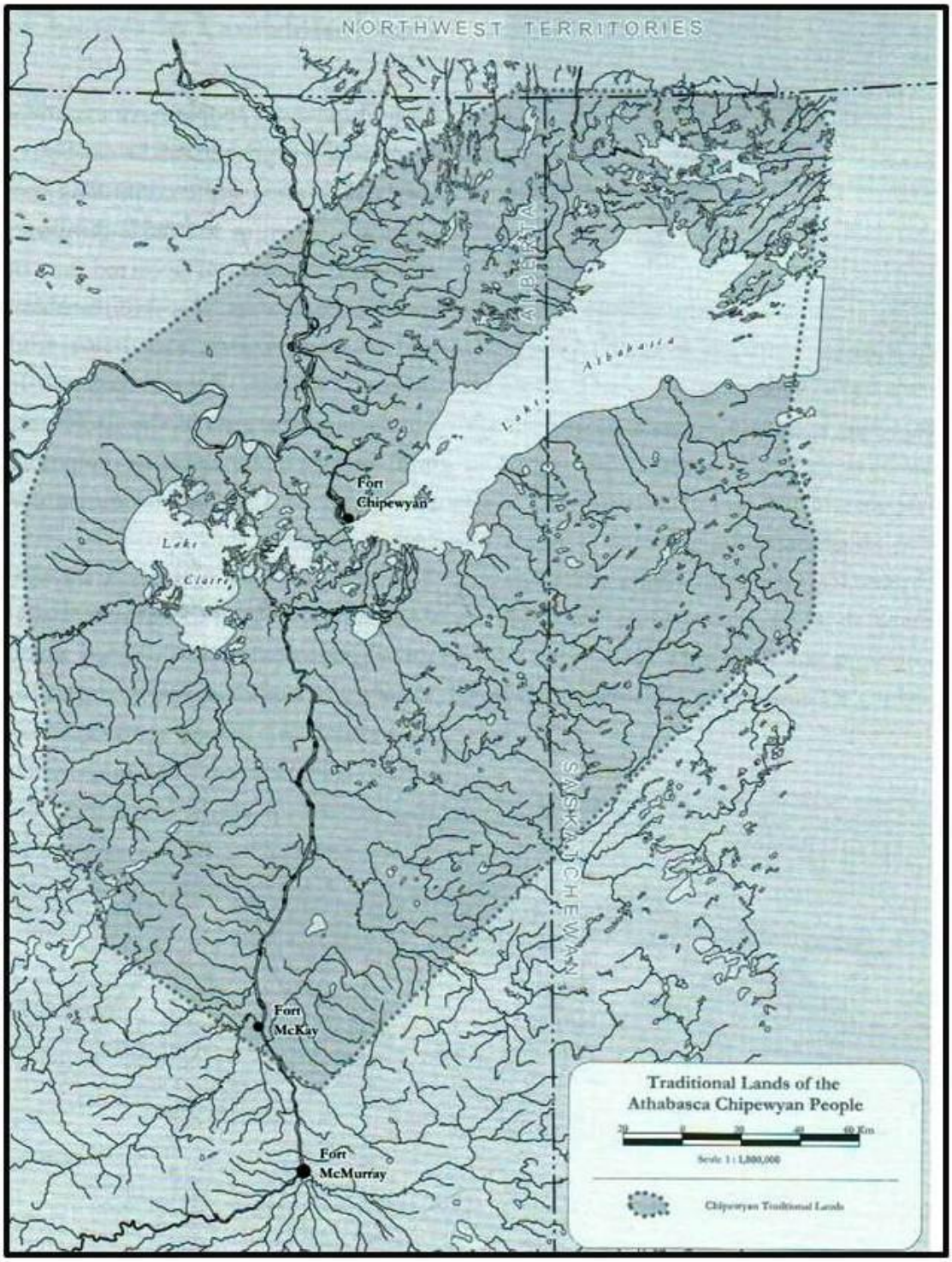


Figure 2. The Core Area of ACFN Traditional Lands (Athabasca Chipewyan First Nation (2003). *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation*: 4).

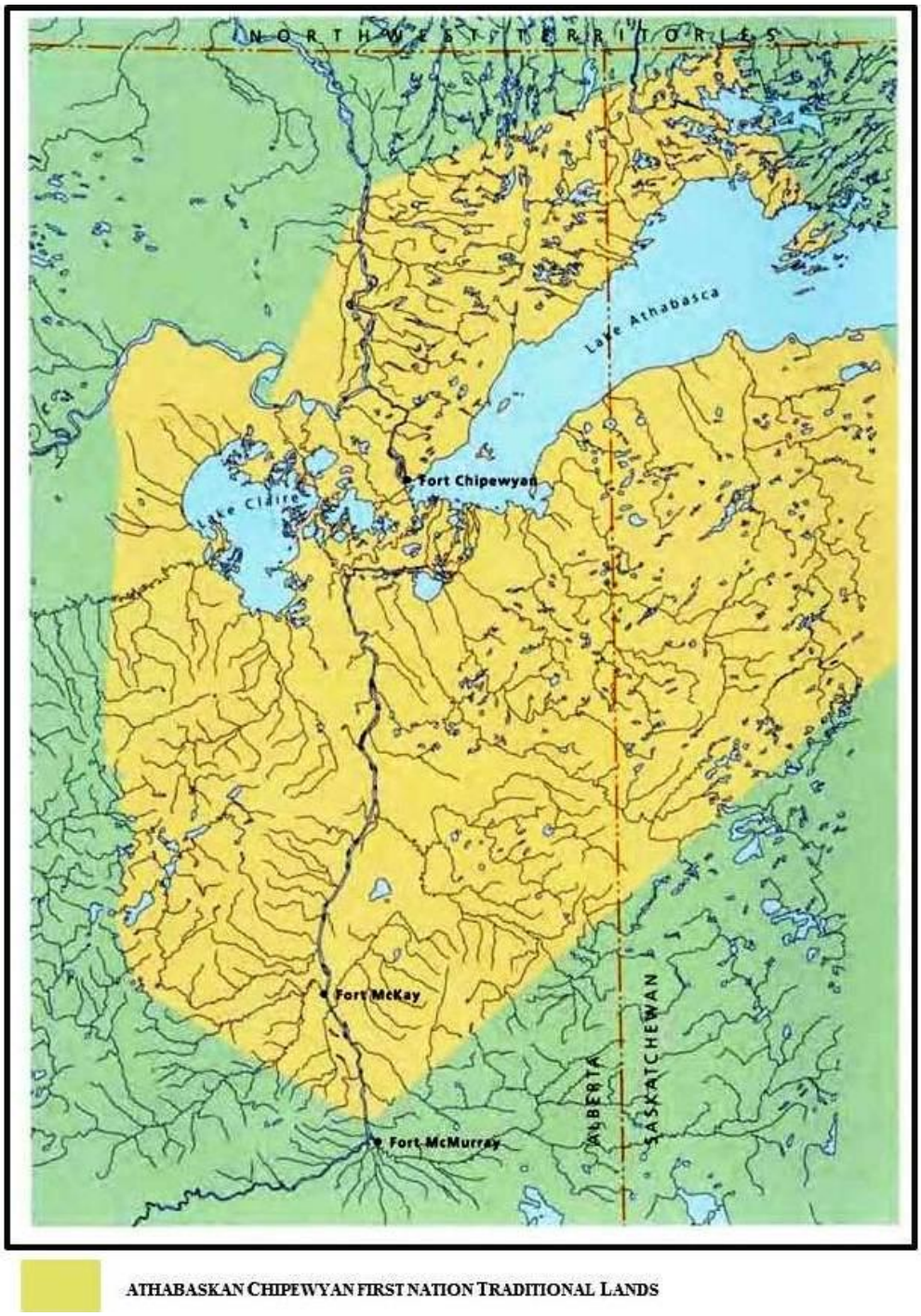
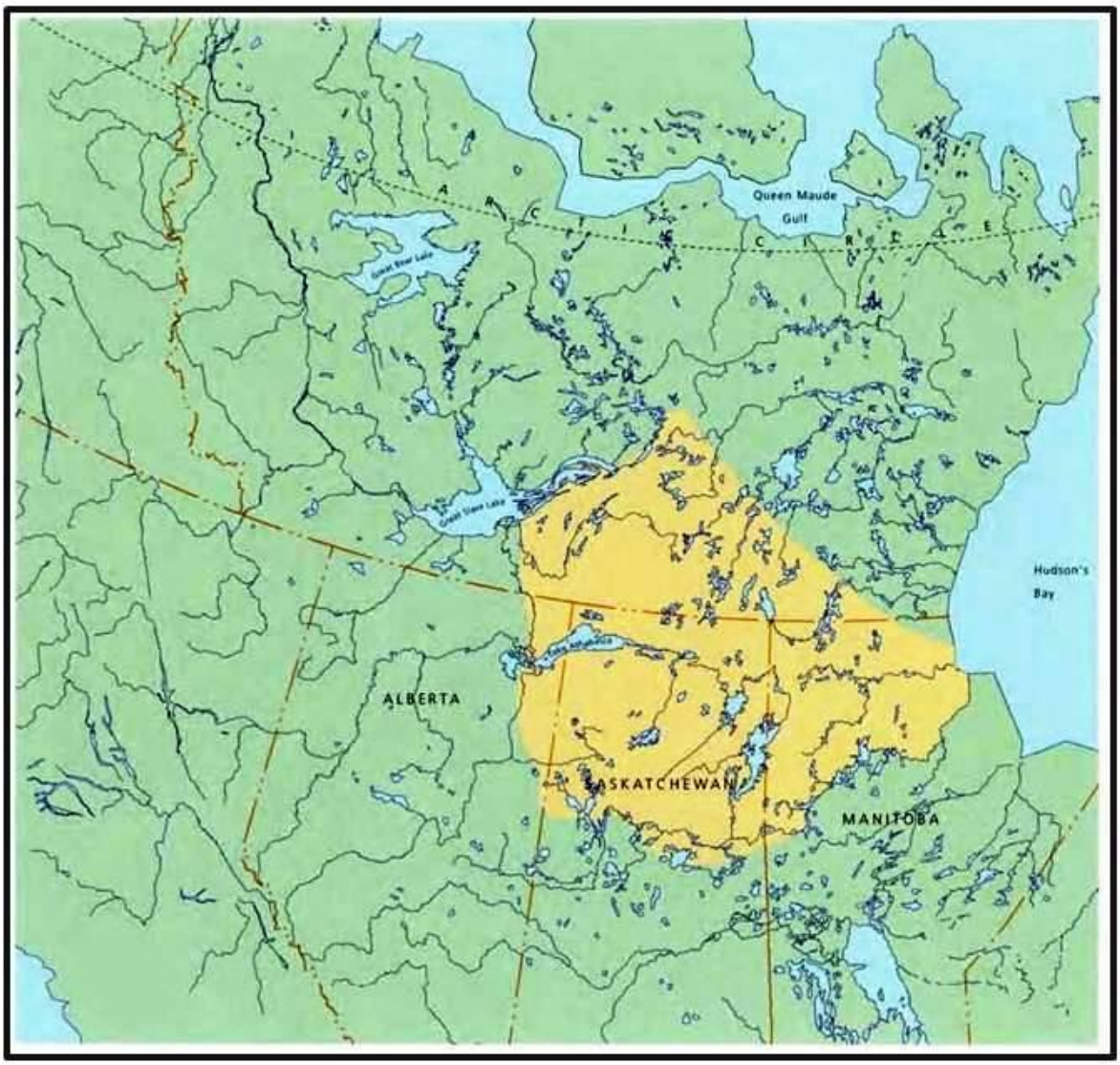


Figure 3. Pre-contact Lands of the Etthen eldeli Dene, ancestors of the ACFN (Athabasca Chipewyan First Nation (2003). *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation*: 30).



CHIPEWYAN TRADITIONAL LANDS IN ABORIGINAL TIMES

Figure 4. ACFN Land Use Areas in the Early 1900s (Athabasca Chipewyan First Nation (2003). *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation*: 50).

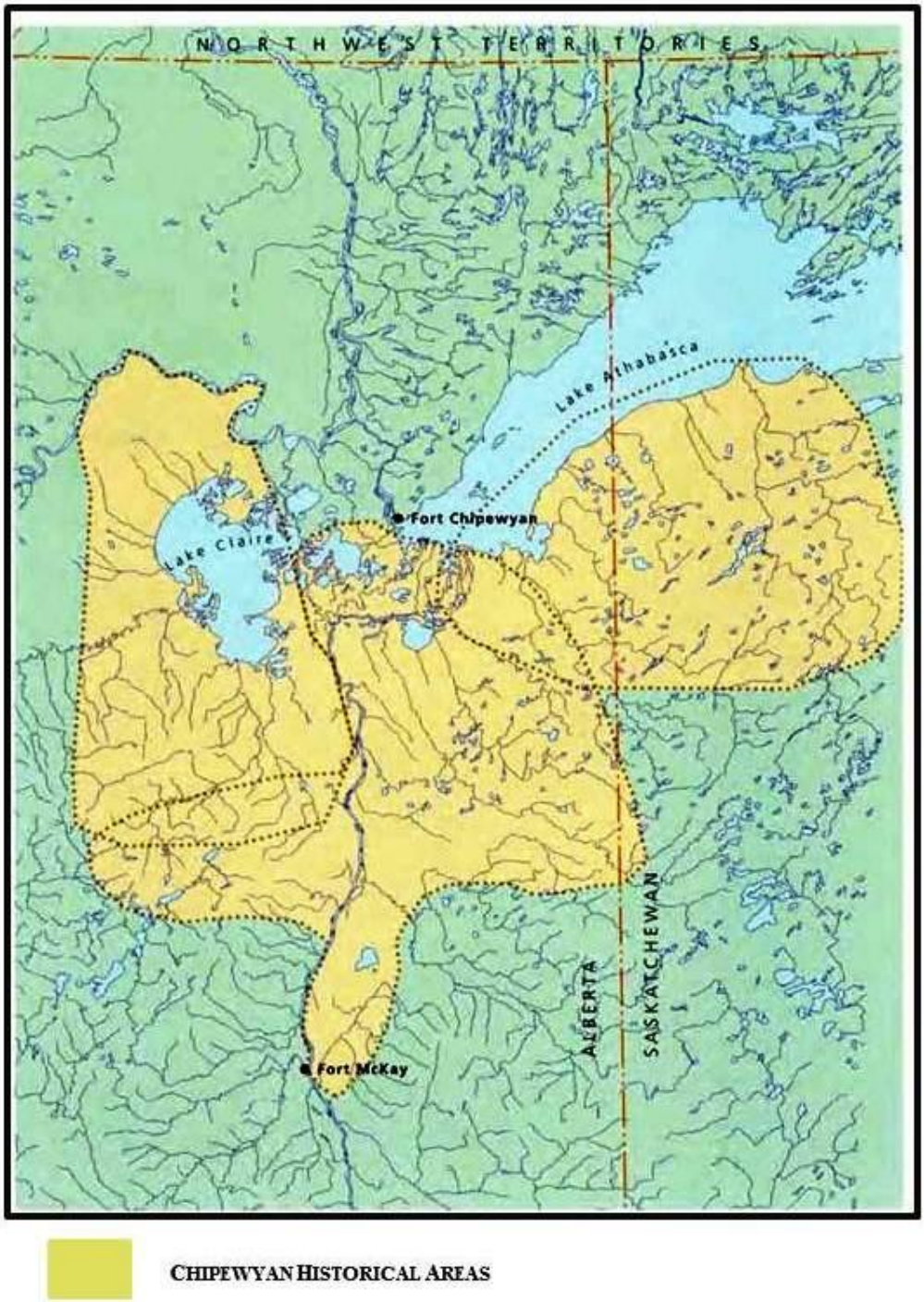


Figure 5. Area of ACFN Big Game Resource Use (ACFN TLUS 2003: 112, Figure 7.4).

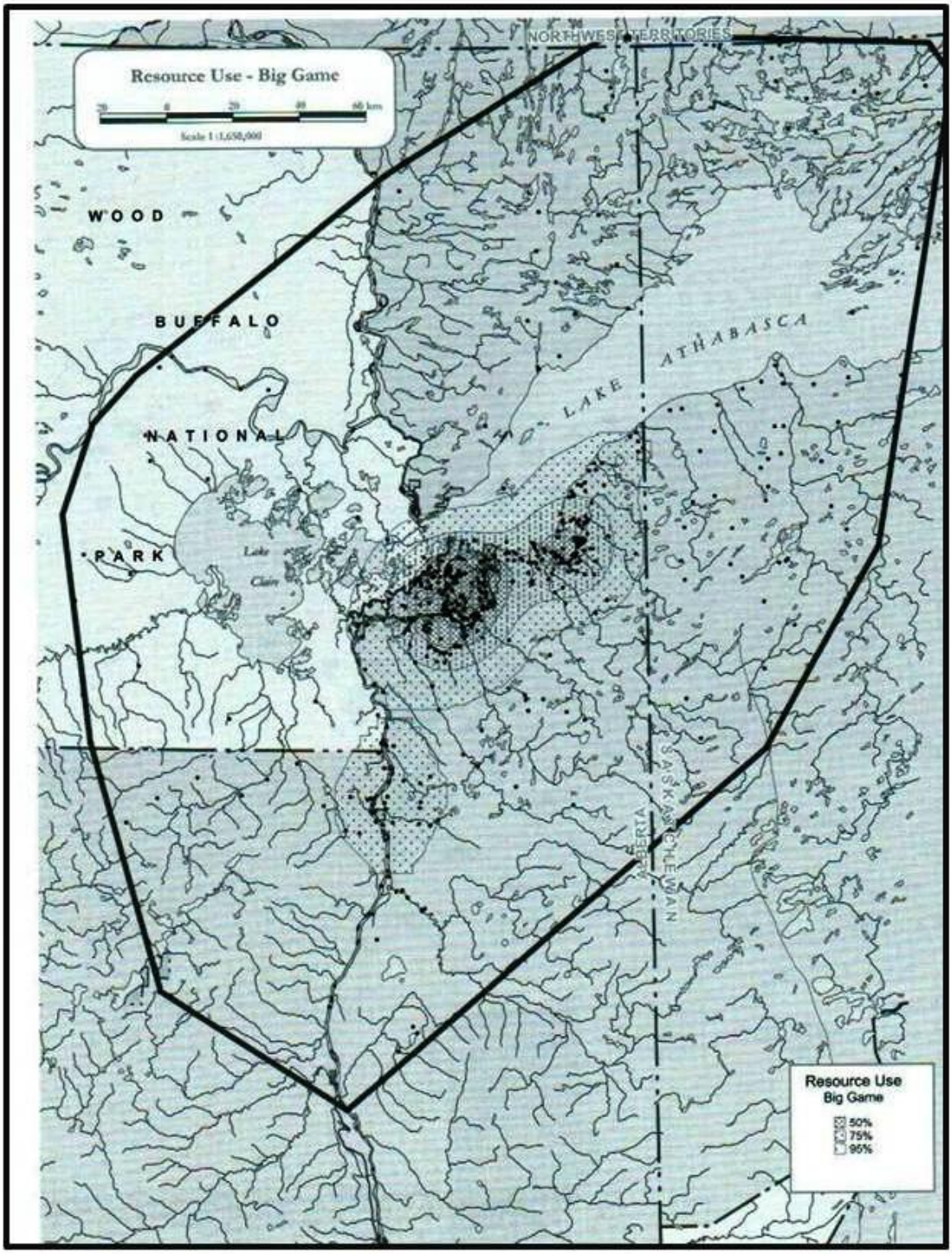


Figure 6. ACFN Traditional Waterfowl and Terrestrial Bird Harvesting (ACFN TLUS 2003: 125, Figure 9.1).

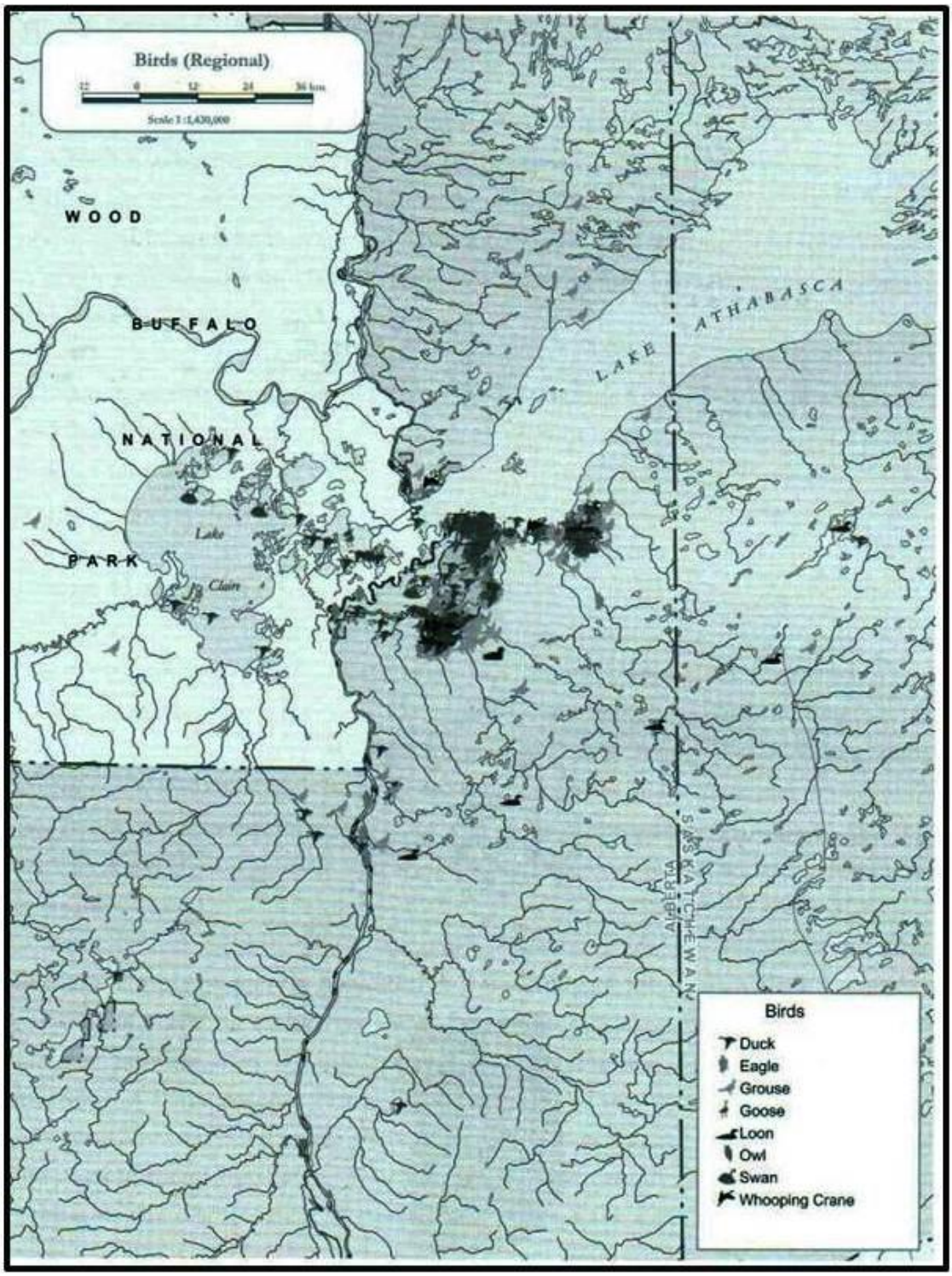


Figure 7. ACFN Traditional Fish Harvesting (ACFN TLUS 2003: 118, Figure 8.1).

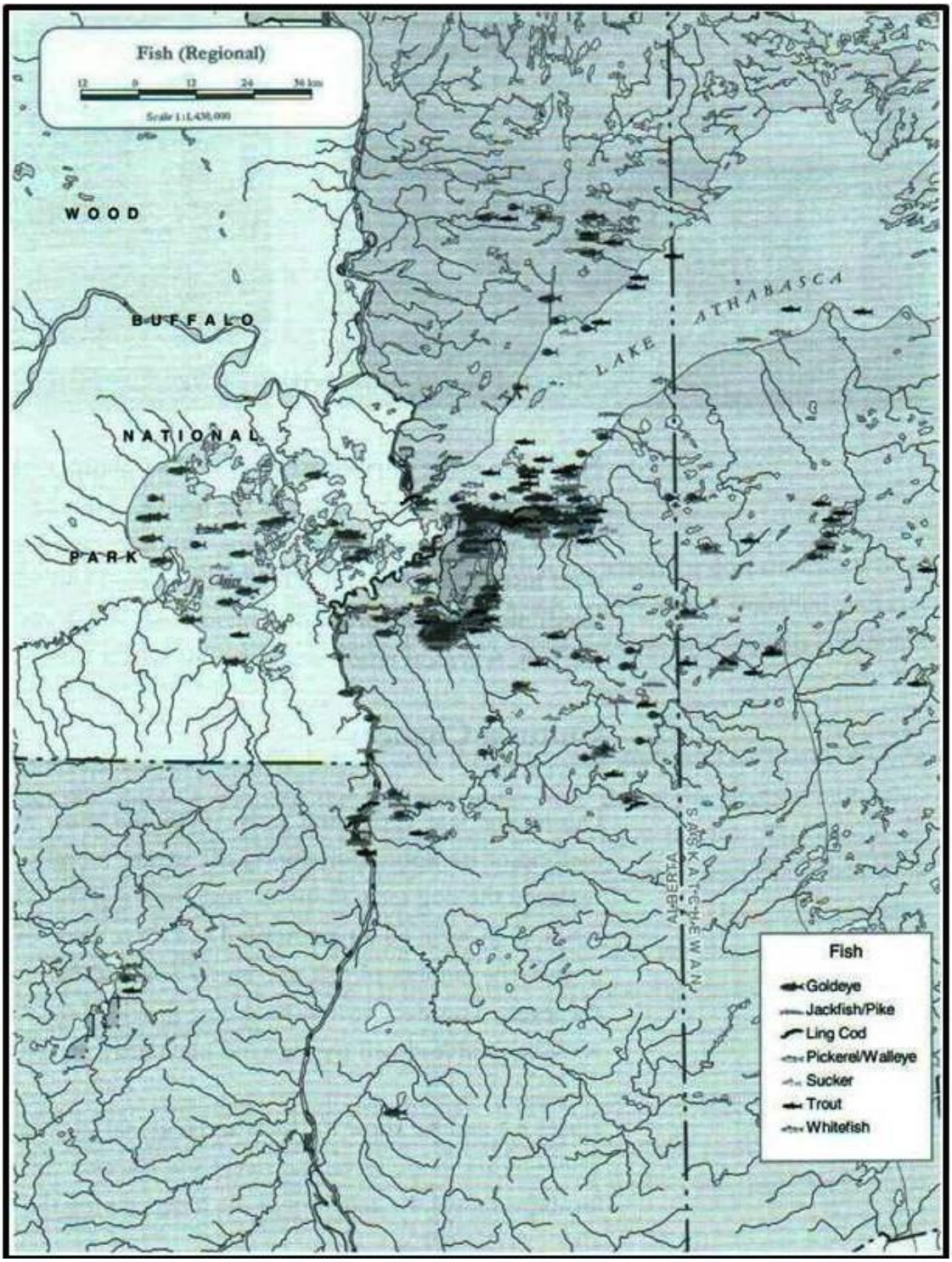


Figure 8. Terrestrial Fur Bearers Harvesting (ACFN TLUS 2003: 92, Figure 6.3).

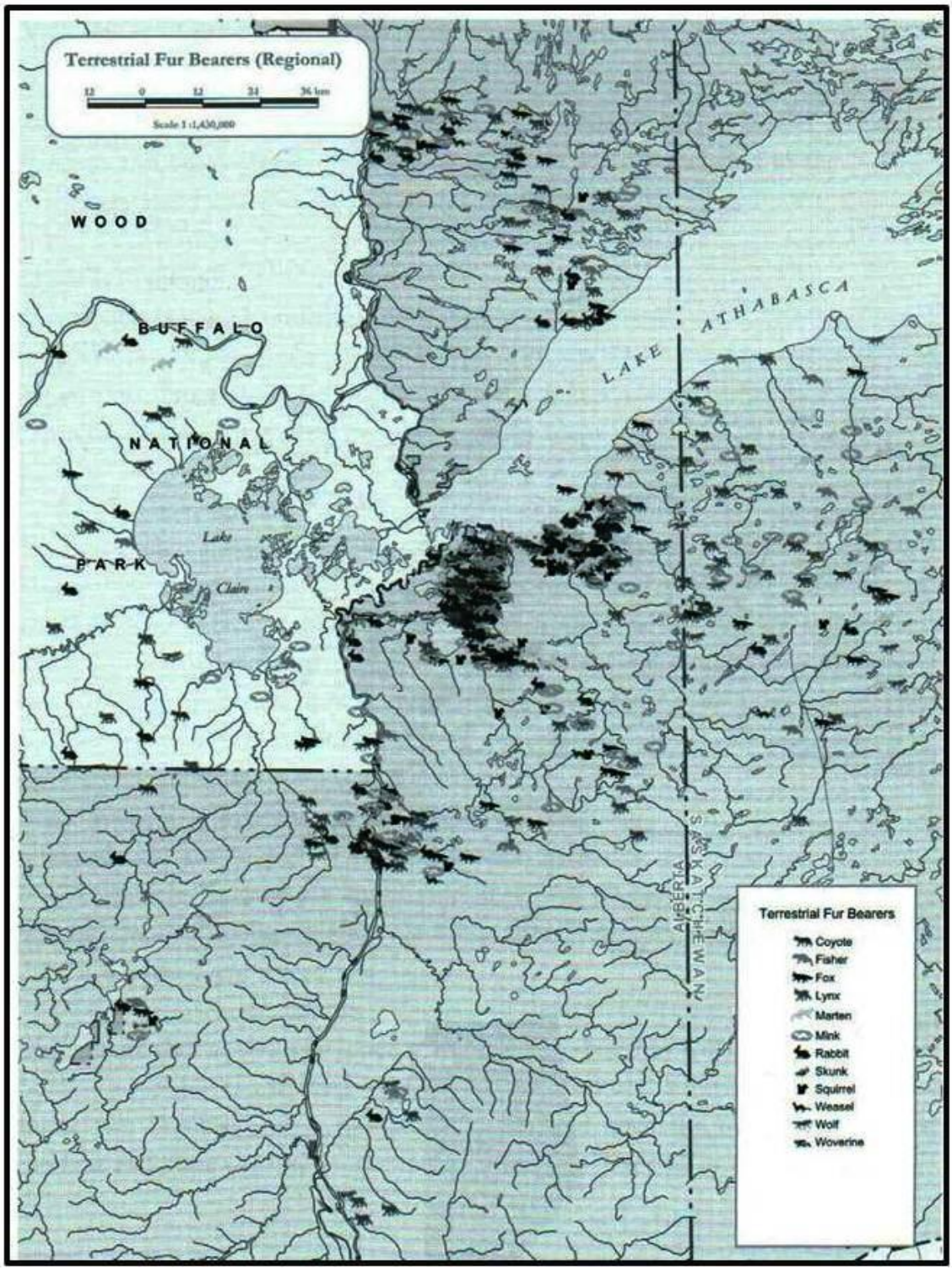
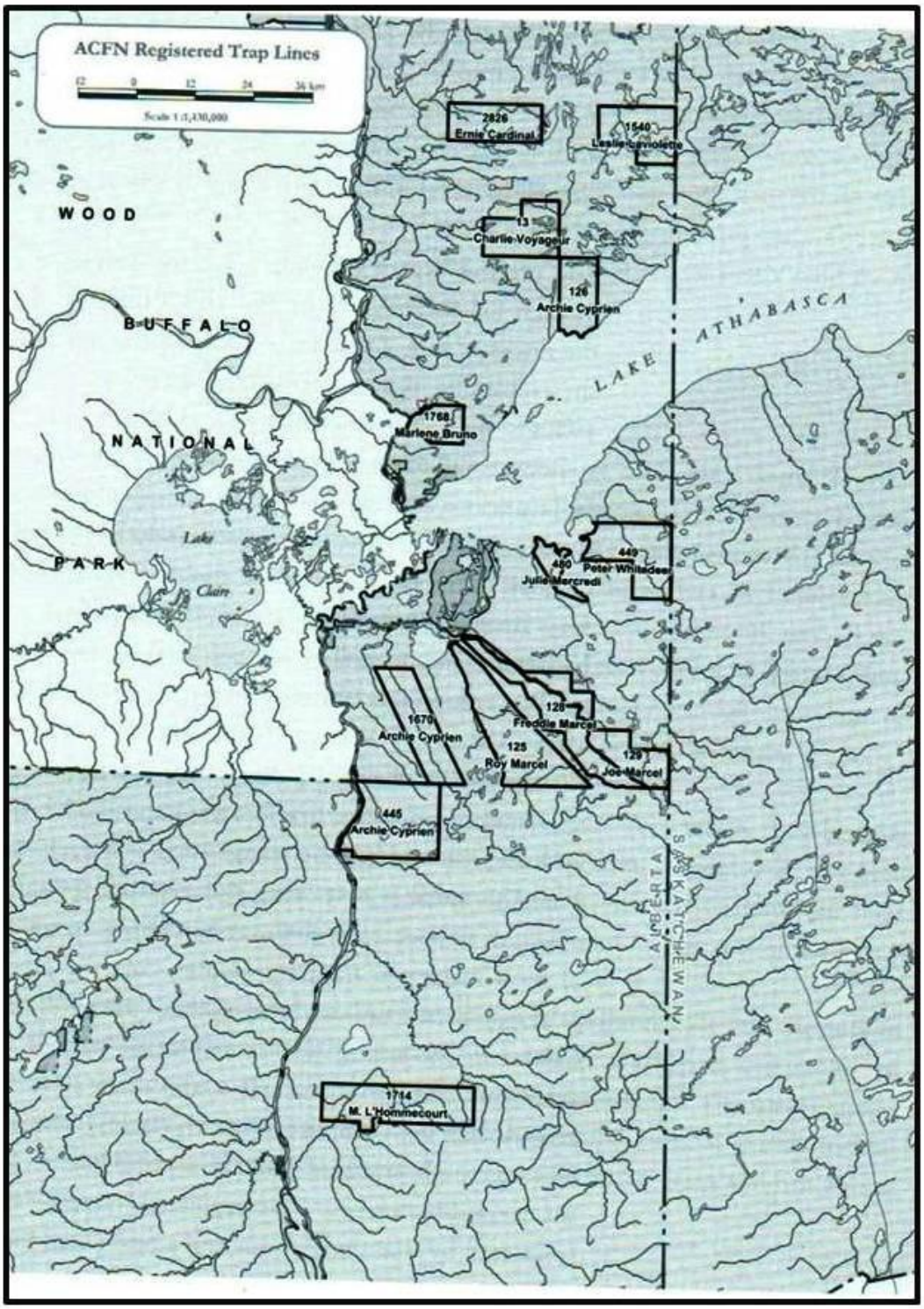


Figure 9. ACFN Registered Traplines (ACFN TLUS 2003: 84, Figure 6.1).



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SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A01 PART 4

ABORIGINAL SUMMARY:
ATHABASCA CHIPEWYAN 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

Athabasca Chipewyan First Nation

As required by Section 20.8 of the EIS Guidelines, the following summary presents BC Hydro's understanding of Athabasca Chipewyan 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 Athabasca Chipewyan First Nation.

Athabasca Chipewyan 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.

Athabasca Chipewyan First Nation's Concerns with Respect to the Project

The following table presents a high-level description of the concerns identified by Athabasca Chipewyan 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, 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 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: - The ability for youth to sustain themselves and practice traditional activities - 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.

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 Athabasca Chipewyan 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 Athabasca Chipewyan 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 Athabasca Chipewyan First Nation.

Consultation is ongoing between BC Hydro and the Athabasca Chipewyan First Nation, and may yield additional information on the Athabasca Chipewyan First Nation's current and reasonably anticipated future use of lands and resources that may potentially be affected by

the Project. Should the Athabasca Chipewyan 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.