SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A27 PART 1

COMMUNITY SUMMARY:
TSAY KEH DENE FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority
<contact information removed>

Prepared by:
Fasken Martineau

<contact information removed>

January 2013

Tsay Keh Dene

The main community of Tsay Keh Dene is located at the north end of the Williston Reservoir, approximately 430 km north of Prince George. Tsay Keh Dene's administrative offices are located in Prince George.

Tsay Keh Dene has three reserves with a combined area of 201 ha (Parsnip No. 5, Police Meadow No. 2 and Tutu Creek No. 4)[1] The band was given the opportunity to select additional reserve land under a 1989 agreement with BC Hydro, the Province of British Columbia, and Canada. It selected 810 ha at Finlay River, 405 ha at Mesilinka and 2 ha at the Ingenika Point Cemetery. The process of converting these federal land parcels to reserves is ongoing.[2]

According to Aboriginal Affairs and Northern Development Canada, as of December 2012, the band has a registered population of 447, with 66 members living on Tsay Keh Dene's reserves and 166 members living on their own Crown land. [3] Tsay Keh Dene has a Chief and four Councillors, and uses a custom electoral system.[4]

Tsay Keh Dene members are involved in seasonal employment in the resource extraction industries, primarily forestry. Tsay Keh Dene has two band-operated businesses: Ingenika Logging and Chu Cho Enterprises Ltd. A few members continue to maintain traplines.[5]

<u>Historical background</u>

Tsay Keh Dene members are culturally Sekani (Tse Keh Nay),[6] translated as "people of the rocks" or "people of the mountains". The Sekani consider themselves to be the original inhabitants of the Rocky Mountain Trench, a valley formed by the eastern and central ranges of the Rocky Mountains.[7]

The post-contact history of Tsay Keh Dene is closely tied to the expansion of the fur trade into the Rocky Mountain Trench. Tsay Keh Dene members are descended from Sekani people who historically traded at Fort Grahame, founded in 1870 near the confluence of the Finlay and Ingenika rivers. Sekani bands that traded at Fort Grahame eventually settled in a permanent community and formed the Fort Grahame Band.[8] In 1916, the Fort Grahame

---

[1] Aboriginal Affairs and Northern Development Canada (AANDC). 2012. *First Nation Detail, Tsay Keh Dene*. Available at: http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNMain.aspx?BAND_NUMBER=609&lang=eng. Accessed: December 2012 ("AANDC, Tsay Keh Dene").

[2] Littlefield, L., L. Dorricott and D. Cullon. 2007. *Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay (Duncan Lake), Draft Submission to the Kemess North Joint Review Panel*. Prepared for Kwadacha First Nation, Tsay Kay Dene, and Takla Lake First Nation. Available at: http://www.ceaa.gc.ca/050/documents_staticpost/cearref_3394/hearings/SM01.pdf. Accessed: December 2012 ("Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay") at 15.

[3] AANDC, Tsay Keh Dene.

[4] AANDC, Tsay Keh Dene.

[5] Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay at 6.

[6] There are numerous spelling variations of this word. "Sekani" was adopted at the beginning of the 1900s and continues to be used by anthropologists. "Tse Keh Nay" has been used by Tsay Kay Dene, Kwadacha First Nation and Takla Lake First Nation.

[7] Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay, at 4-5.

[8] Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay at 13; Denniston G., 1981. Sekani in J. Helm (ed.) *Handbook of North American Indians vol 6*. Washington, DC: Smithsonian Institution.at 434.

Band was allotted two reserves, one at Fort Grahame and another 20 km north.[9] In 1920, a trading post was established north of Fort Grahame on the Finlay River near its confluence with the Fox and Kwadacha rivers (Fort Ware). Soon after, some members of the Fort Grahame Band split off to form an independent band at Fort Ware. In 1959, the two bands amalgamated as the Finlay River Band.[10]

The Finlay River Band divided into the Fort Ware and Ingenika bands in 1970. The Ingenika Band became known as Tsay Keh Dene in 1994.[11]

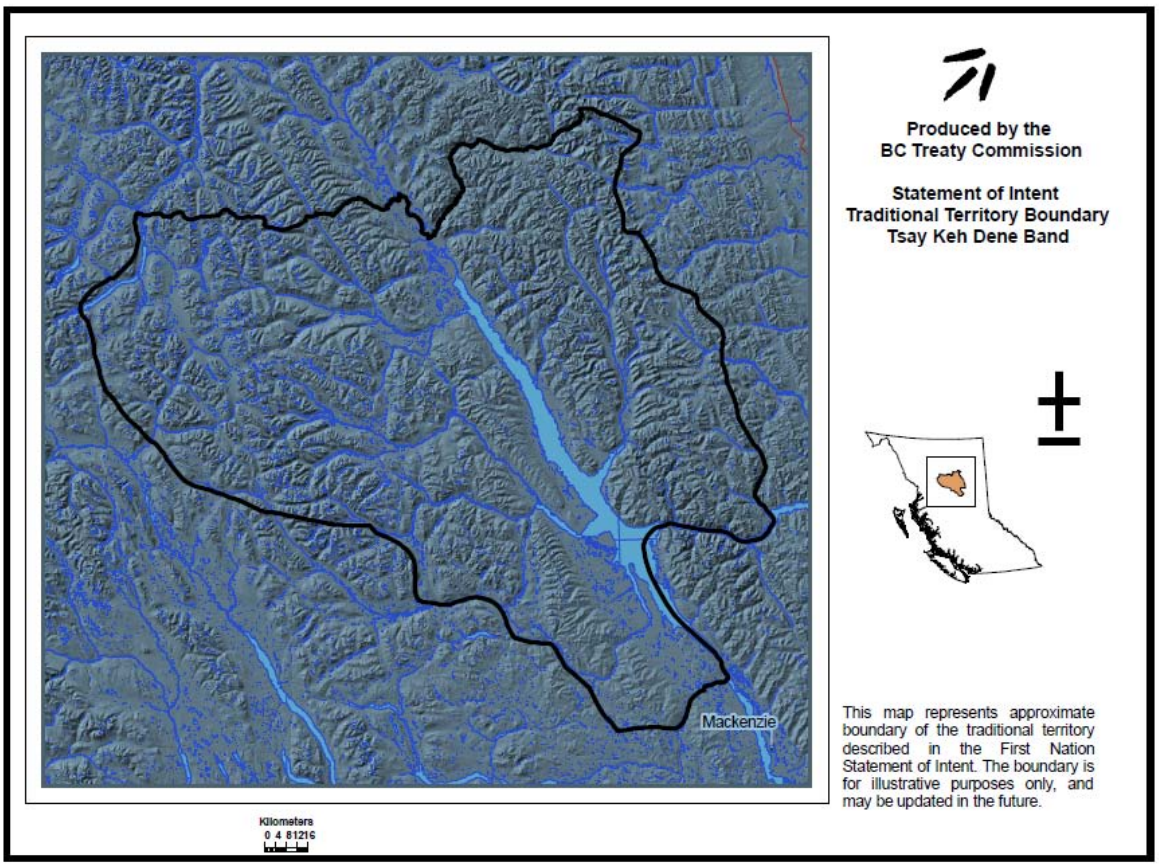
Treaty Negotiations

The Tsay Keh Dene entered into treaty negotiations with British Columbia and Canada in May 1994. They are currently in Stage 4 (negotiating an agreement in principle) of the six-stage treaty process.[12]

[9] Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay at 14.
[10] Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay at 15.
[11] Tse Keh Nay Traditional and Contemporary Use and Occupation at Amazay at 15.
[12] Ministry of Aboriginal Relations and Reconciliation (MARR). 2012. *Tsay Keh Dene Band Treaty Negotiations*. Available at: http://www.gov.bc.ca/arr/firstnation/tsaykeh_dene/default.html. Accessed: December 2012.

Traditional Territory Map

BC Treaty Commission. 1994. Statement of Intent: Traditional Territory Boundary for Tsay Keh Dene Band. Available at: http://www.bctreaty.net/nations/soi_maps/Tsay_Keh_Dene_SOI_Map.pdf Accessed: October 2012.



SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A27 PART 2

BC HYDRO CONSULTATION SUMMARY: TSAY KEH DENE 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.

TSAY KEH DENE FIRST NATION

CONSULTATION SUMMARY

Defined Terms	
"AMEC"	AMEC Earth & Environmental, consultant for BC Hydro
"BCEAO"	Environmental Assessment Office, Province of British Columbia
"CEA Agency"	Canadian Environmental Assessment Agency
"EIS"	Environmental Impact Statement
"Golder"	Golder Associates Ltd., consultant for BC Hydro
"Kwadacha"	Kwadacha First Nation
"Province"	Province of British Columbia
"Site C" or "the Project"	proposed Site C Clean Energy Project
"Tsay Keh Dene"	Tsay Keh Dene First Nation

Key events

2007

- November: BC Hydro made initial contact with Tsay Keh Dene regarding the Project and expressed its commitment to effective consultation with respect to the Project.

2008

- June: BC Hydro and Tsay Keh Dene met and BC Hydro provided a high level introduction to the Project and reconfirmed its willingness to meet more formally to discuss the Project. Tsay Keh Dene indicated that it was still focused on the negotiations with BC Hydro related to the historical impacts from the W.A.C. Bennett Dam, and did not feel any urgency to deal with Site C. Tsay Keh Dene indicated that it could not support the Project while the larger historical grievances were still outstanding.

2009

- December: BC Hydro re-connected with Tsay Keh Dene in early December 2009 and provided a Project update by telephone / email. BC Hydro advised that if the Project moved forward to Stage 3, it would contact Tsay Keh Dene to discuss the possibility of entering into a consultation agreement.

2010

- April: BC Hydro advised Tsay Keh Dene 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.

- June/July: BC Hydro extended an offer to Tsay Keh Dene to jointly develop a Stage 3 consultation agreement, and Tsay Keh Dene accepted the offer. BC Hydro provided Tsay Keh Dene with an initial draft Stage 3 consultation agreement, and the parties met twice to negotiate the terms of the agreement. BC Hydro provided Tsay Keh Dene with interim capacity funding for costs associated with the negotiations.

- September/October: BC Hydro met with Tsay Keh Dene (legal counsel) on four occasions for further negotiations on the terms of a Stage 3 consultation agreement, and reached a substantive agreement on a final draft in late October. Tsay Key Dene (legal counsel) indicated that the final draft would be provided to Chief and Council with a recommendation to execute.

2011

- January: BC Hydro met with representatives of Tsay Keh Dene and Kwadacha for a Project update and information sharing. BC Hydro presented information, sought input, and responded to questions regarding fish, wildlife, methylmercury, hydrology (temperature, ice formation), water quality, impact lines, and greenhouse gas emissions. The parties also discussed economic and employment opportunities

associated with the Project.

- March:
  - BC Hydro wrote to Tsay Keh Dene and expressed interest in visiting the community and renewing discussions on a draft Stage 3 consultation agreement. The letter added that BC Hydro was interested in discussing options for involving Tsay Keh Dene in training and employment opportunities associated with the Project.
  - BC Hydro held an Integrated Resource Plan workshop in Prince George, with representatives from Tsay Keh Dene in attendance. The workshop included a description of the Integrated Resource Plan, an overview of how an Integrated Resource Plan is developed, and a presentation and facilitated discussion on various topics related to the Integrated Resource Plan.
  - BC Hydro provided Tsay Keh Dene with four Stage 2 fisheries studies.
- April:
  - BC Hydro met with representatives of Tsay Keh Dene to provide a Project update and discuss the status of the draft Stage 3 consultation agreement.
  - BC Hydro provided Tsay Keh Dene with summary documents describing proposed studies for the 2011 field program, and invited feedback and comments. The proposed studies were to be undertaken through the Environmental Program (Fish and Aquatics, Wildlife, Physical Environment), the Heritage Assessment, and the Socio-economic Assessment.
- May:
  - BC Hydro advised Tsay Keh Dene that it had submitted the Project Description Report and provided a link to the report.
  - BC Hydro hosted a community luncheon in the Tsay Keh Dene village attended by approximately 50 community members. BC Hydro met with a representative of Chu Cho Enterprises Ltd., a band-owned business, for a discussion about potential economic opportunities associated with the Project.
- June/July: BC Hydro provided Tsay Keh Dene with a revised draft of the Stage 3 consultation agreement, but Tsay Keh Dene indicated that negotiations would need to be postponed.
- September: BC Hydro wrote to Tsay Keh Dene in an effort to renew the

negotiations on the Stage 3 consultation agreement, and suggested that the parties meet to discuss how to move forward with concluding an agreement.

2012

- January: BC Hydro wrote to Tsay Keh Dene advising that it remained interested in concluding a Stage 3 consultation agreement. BC Hydro extended an invitation to Tsay Keh Dene to participate in upcoming meetings between BC Hydro and Kwadacha.
- May: BC Hydro wrote to Tsay Keh Dene 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 Tsay Keh Dene.
- September/October: BC Hydro wrote to Tsay Keh Dene 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 Tsay Keh Dene 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 Tsay Keh Dene's current use of lands and resources for hunting fishing and trapping, and other purposes, and information regarding how the Project would affect Tsay Keh Dene'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 indicated that it remained interested in receiving additional information to support the preparation of the EIS.

Chronology of events

On November 21, 2007, BC Hydro sent an introductory letter to Tsay Keh Dene 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 June 17, 2008, BC Hydro met with Tsay Keh Dene's Chief. BC Hydro provided a high level introduction to the Project and responded to questions. BC Hydro reconfirmed its willingness to meet more formally to discuss the Project. However, Tsay Keh Dene indicated that it was still focused on the negotiations with BC Hydro related to the historical impacts from the W.A.C. Bennett Dam and did not feel any urgency on Site C. Tsay Keh Dene advised that it could not support the Project while the larger historical grievances

were outstanding, and noted that the Project would not be possible without the existing Williston Reservoir associated with the W.A.C. Bennett Dam. BC Hydro provided Tsay Keh Dene with the *Stage 1 Summary Report - Review of Project Feasibility* (December 2007).

On December 10 and 11, 2009, BC Hydro re-connected with Tsay Keh Dene (Councillor) by telephone and email to provide an update on the Project. BC Hydro advised that it intended to file a Stage 2 Report, which would include a recommendation to the Province on proceeding to Stage 3, and offered to provide Tsay Keh Dene with a copy of the Stage 2 Report as soon as it was publicly available. BC Hydro indicated that, if the Project moved forward to Stage 3, it would contact Tsay Keh Dene to discuss the possibility of entering into a consultation agreement. BC Hydro advised that it would welcome the opportunity to meet with Tsay Keh Dene in early 2010.

On December 11, 2009, BC Hydro sent a follow-up letter attaching the Site C Feasibility Review: Stage 1 Completion Report, and the Stage 1 Summary Report - Review of the Project Feasibility (December 2007).

In February of 2010, Tsay Keh Dene contacted BC Hydro by email and asked for an update on the Project. BC Hydro replied that it expected the Province to provide direction to BC Hydro about moving forward to Stage 3 in the spring of 2010, and advised that BC Hydro would contact Tsay Keh Dene as soon as a decision was announced to begin planning next steps. BC Hydro extended an offer of a meeting.

On April 19, 2010, BC Hydro received a letter from Tsay Keh Dene's legal counsel requesting that Tsay Keh Dene be included on BC Hydro's consultation list for the Project. The letter requested that correspondence related to the Project be directed to legal counsel. BC Hydro responded to the letter on April 20, 2010. BC Hydro provided an overview of BC Hydro's consultation and engagement with Tsay Keh Dene to date, and noted that BC Hydro's consultation list for the Project had always included Tsay Keh Dene.

On April 20, 2010, BC Hydro sent an email to Tsay Keh Dene advising that the Province of B.C. 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 June 2, 2010, BC Hydro sent a letter to Tsay Keh Dene extending an offer to jointly develop a Stage 3 consultation agreement.

On June 9, 2010, Tsay Keh Dene sent a letter to BC Hydro advising that it accepted BC Hydro's invitation to jointly develop a Stage 3 consultation agreement.

On June 16, 2010, BC Hydro and Tsay Keh Dene exchanged emails in regards to scheduling a procurement information session in the community. The procurement session

would provide information about BC Hydro's Aboriginal procurement policies and registration of Aboriginal businesses in the BC Hydro and Site C business directories.

On June 18, 2010, BC Hydro sent an email to Tsay Keh Dene attaching a draft of the Stage 3 consultation agreement. BC Hydro further advised the consultation agreement would need to set out clear deliverables and funding levels, and suggested making this a topic of a future meeting.

On June 21, 2010, BC Hydro sent a letter to Tsay Keh Dene advising that Golder had been awarded the contract to conduct the Heritage Assessment for the Project, and that Golder would be holding a five day heritage training program in Fort St. John. Golder would be looking for Tsay Keh Dene to identify interested community members to attend this training, with a view to providing employment opportunities to community members.

On June 23, 2010, BC Hydro met with representatives of Kwadacha (negotiator) and Tsay Keh Dene (legal counsel). The parties reviewed the latest draft Stage 3 Consultation Agreement, and BC Hydro agreed to provide a revised draft based on the discussion. The parties agreed that BC Hydro would provide interim capacity funding to support both Kwadacha and Tsay Keh Dene in their work on the Stage 3 consultation agreement.

On July 13, 2010, Tsay Keh Dene's legal counsel sent a letter to BC Hydro providing comments on the draft Stage 3 consultation agreement and attached a revised draft of the agreement. The letter proposed an amount for interim capacity funding for costs incurred by Tsay Keh Dene and Kwadacha, pending the finalization of a budget and work plan.

On July 27, 2010, BC Hydro met with Kwadacha (negotiator, consultant) and Tsay Keh Dene (legal counsel). The parties reviewed the latest draft consultation agreement, and agreed to further revisions. The parties reached an agreement on an amount of interim capacity funding to cover cost incurred by Tsay Keh Dene and Kwadacha in their work on the Stage 3 consultation agreement.

On September 9, 2010, BC Hydro met with representatives of Kwadacha (negotiator) and Tsay Keh Dene (legal counsel) to review the latest draft of the Stage 3 consultation agreement. BC Hydro agreed to prepare and circulate a revised draft based on the discussion. Tsay Keh Dene and Kwadacha committed to preparing and circulating drafts of their respective work plans.

On September 15, 2010, BC Hydro sent a letter to Tsay Keh Dene enclosing a cheque for interim capacity funding, pursuant to the agreement reached at the meeting of July 27, 2010.

On September 22, 2010, BC Hydro met via teleconference with Kwadacha (negotiator and consultant) and Tsay Keh Dene (legal counsel). The parties reviewed the latest draft of the

Stage 3 consultation agreement, and BC Hydro agreed to circulate a revised draft based on the discussion.

On September 30, 2010, BC Hydro met via teleconference with representatives of Tsay Keh Dene (legal counsel) and Kwadacha (negotiator, consultant) to review the latest draft Stage 3 Consultation Agreement. The parties agreed to additional revisions and BC Hydro agreed to circulate a revised draft based on the discussion. Tsay Keh Dene and Kwadacha agreed to make best efforts to circulate their respective work plans in advance of the next meeting.

On October 8, 2010, BC Hydro met with representatives of Kwadacha (negotiator, consultant), and Tsay Keh Dene (legal counsel) to discuss the latest draft of the Stage 3 consultation agreement. Kwadacha and Tsay Keh Dene provided an overview of their respective budgets and work plans, including proposed consultation activities and defined consultation projects. BC Hydro agreed to consider the budgets and work plans, and agreed to make revisions to the draft Stage 3 consultation agreement based on the discussion.

On October 20, 2010, BC Hydro met with Kwadacha (negotiator, consultant) and Tsay Keh Dene (legal counsel). The parties reviewed the latest draft of the Stage 3 consultation agreement, including provisions related to capacity funding. BC Hydro agreed to revise the draft based on the discussions, and circulate it to Kwadacha and Tsay Keh Dene.

On October 22, 2010, BC Hydro sent an email to Kwadacha and Tsay Keh Dene attaching a revised draft Stage 3 consultation agreement, per the meeting on October 20, 2010, and requested feedback.

On October 26, 2010, Tsay Keh Dene sent an email to BC Hydro confirming that the latest draft Stage 3 consultation agreement would be forwarded to Tsay Keh Dene's Chief and Council, with a recommendation to approve and execute, upon receipt of a clean copy of the documents.

On October 27, 2010, BC Hydro sent an email to Tsay Keh Dene attaching a clean copy of the draft Stage 3 consultation agreement, and advised that the agreement would be entered into BC Hydro's system for recommendation for execution.

On November 22, 2010, BC Hydro sent a letter to Tsay Keh Dene advising that it was preparing to initiate a fisher telemetry study and provided the following information for Tsay Keh Dene's consideration:

- An outline of the fisher study program, and
- A description of two job opportunities with Keystone Wildlife Research.

On December 1, 2010, BC Hydro sent an email to Tsay Keh Dene requesting an update on the status of the draft Stage 3 consultation agreement. Tsay Keh Dene responded that the matter of the consultation agreement had been deferred to the next Chief and Council meeting, scheduled later for in December.

On January 5, 2011, BC Hydro sent an email to Tsay Keh Dene, requesting an update on the status of the Stage 3 consultation agreement. Tsay Keh Dene indicated that Chief and Council did not meet prior to Christmas of 2010, but that a meeting was scheduled for that week and an update would be provided to BC Hydro.

On January 17, 2011, BC Hydro met with representatives of Kwadacha (negotiator), Tsay Keh Dene (legal counsel), and InterGroup Consultants Ltd., consultant for Kwadacha and Tsay Keh Dene. BC Hydro provided an update on the Project and an overview of the regulatory process, including information on the expected timeline for submission of the Project Description Report and the overall timeline for completing the environmental assessment. BC Hydro reviewed the methodology and results of previous and current environmental studies, and presented information in the following topics areas: fish, wildlife, methylmercury, hydrology (temperature, ice formation), water quality, impact lines, and greenhouse gas emissions. BC Hydro responded to questions and concerns raised by Kwadacha and Tsay Keh Dene, including concerns related to changes in local climate patterns, impacts to groundwater quality and the proposed approach to reservoir clearing. BC Hydro described different options for the First Nations to have input on studies and study design. The parties discussed the availability of economic and employment opportunities associated with the Project and options for scheduling a community meeting with Tsay Keh Dene and Kwadacha with the possibility of attendance by BC Hydro's Senior Procurement Advisor. Regarding the status of the Stage 3 consultation agreement, Tsay Keh Dene expected that it would be discussed at a Band Council meeting taking place that afternoon.

On February 3, 2011, BC Hydro sent an email to Tsay Keh Dene providing notice of a request for proposal for general construction services which had been posted to the BC Bid website.

On February 17, 2011, Tsay Keh Dene's former legal counsel advised BC Hydro that, as of the previous week, it was no longer representing Tsay Keh Dene and provided the name of Tsay Keh Dene's new legal representation.

On February 17, 2011, Golder sent a letter to Tsay Keh Dene regarding the 2011 Heritage Assessment field program. Golder indicated that it was preparing to submit a request to the Archaeology Branch for an amendment of the existing Heritage Inspection Permit (#2010-0378). In anticipation of receiving the amended permit, Golder was preparing to include potential participation by First Nations in the field work and analysis. Golder advised that

AMEC would follow up with the sub-consultant agreements and task orders required for the program, if Tsay Keh Dene showed interested in participating.

On March 1, 2011, BC Hydro sent an email to Tsay Keh Dene attaching a link to the following Stage 2 fisheries, environment and marine life studies:

- Peace River Fisheries Investigation, Peace River and Pine River Radio Telemetry Study 2009. AMEC Earth and Environmental and LGL Limited 2010.
- Site C Fisheries Studies, Halfway River and Moberly River Fall Mountain Whitefish Migration and Spawning Study 2009. Mainstream Aquatics Ltd. 2010.
- Site C Fisheries Studies Halfway River and Moberly River Summer Fish Survey 2009. Mainstream Aquatics Ltd. 2010.
- Site C Fisheries Studies, Peace River Fish Inventory 2009. Mainstream Aquatics Ltd. 2010.

BC Hydro also sent a copy of the studies on disk to Tsay Keh Dene. BC Hydro re-sent the same materials on March 24, 2011.

On March 4, 2011, BC Hydro sent a letter to Tsay Keh Dene which reviewed BC Hydro's engagement with Tsay Keh Dene to date, including efforts to conclude a Stage 3 consultation agreement with Tsay Keh Dene's former legal counsel in 2010. The letter indicated that BC Hydro was aware of a transition taking place with Tsay Keh Dene's legal representation, and acknowledged that the transition might take some time. The letter advised that BC Hydro was prepared to visit the community to provide further information about the Project and resume discussions related to the draft consultation agreement. The letter added that BC Hydro was interested in discussing options for involving Tsay Keh Dene in training and employment opportunities associated with the Project.

On March 17, 2011, an Integrated Resource Plan workshop was held in Prince George, with representatives of Tsay Keh Dene in attendance. The workshop included a description of the Integrated Resource Plan, an overview of how an Integrated Resource Plan is developed and a presentation and facilitated discussion on various topics related to the Integrated Resource Plan. One of the objectives of the workshop was to consult with First Nations on three example portfolio options for meeting increased demand for electricity; a renewable mix without Site C, a renewable mix with Site C, or a mix of renewables with Site C and gas-fired generation. Potential resource options explored included biomass, wind, geothermal, thermal (such as natural gas and coal), hydro (such as run of river, pump storage, and the Site C Project), ocean (wave and tidal), hydrokinetic, and solar.

On April 4, 2011, BC Hydro sent a letter to Tsay Keh Dene advising that BC Hydro had prepared summary documents that described proposed studies for the 2011 field season.

The letter indicated that the studies could be revised in scope or timing based on input from Aboriginal groups. The letter enclosed study outlines and work plan summaries in the following topic areas:

- Environmental Program: Fish and Aquatics;
- Environmental Program: Wildlife;
- Environmental Program: Physical Environment;
- Heritage Assessment; and,
- Socio-Economic Assessment.

The letter advised that some field programs were ongoing and others would start over the next few months, and therefore BC Hydro would appreciate receiving any comments as early as possible. The letter added that if Tsay Keh Dene preferred to meet to discuss the work plans, BC Hydro was prepared to arrange meetings with its technical staff.

On April 20, 2011, BC Hydro met with representatives of Tsay Keh Dene (General Manager, Natural Resource Director). BC Hydro provided an update on the status of the Project including the timeline for submission of the Project Description Report. BC Hydro reviewed the history of engagement with Tsay Keh Dene on the Project, and advised that BC Hydro's March 3 letter was an effort to re-initiate contact. BC Hydro indicated that it remained interested in concluding a consultation agreement with Tsay Keh Dene, but noted that the previous draft agreement would need to be updated. BC Hydro agreed to provide a revised draft for Tsay Keh Dene's consideration. The parties discussed the possibility of scheduling a community meeting on May 4, 2011, and Tsay Keh Dene committed to confirming the date.

On April 26, 2011, BC Hydro sent an email to Tsay Keh Dene further to the meeting of April 20, 2011, and attached the following:

- Letter from BC Hydro to Tsay Keh Dene, dated March 4, 2011;
- Letter from BC Hydro to Tsay Keh Dene, dated September 15, 2010;
- British Columbia *Environmental Assessment Act* process flow chart;
- Revised draft Stage 3 consultation agreement, dated April 20, 2011.

On May 4, 2011, BC Hydro hosted a community luncheon in the Tsay Keh Dene village, which was attended by approximately 50 community members. BC Hydro was prepared to provide a project update presentation, but it was determined that the better approach would be to have an informal discussion with interested members. BC Hydro met with a

representative of Chu Cho Enterprises Ltd., a band-owned business, and had a discussion about economic opportunities associated with the Project, the BC Hydro Aboriginal business directory, and recent work undertaken by Chu Cho Enterprises Ltd.

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

On June 20, 2011, Tsay Keh Dene sent an email to BC Hydro attaching a revised draft Stage 3 consultation agreement. BC Hydro advised that it would review the revisions and asked for Tsay Keh Dene's available dates for a teleconference.

On July 13, 2011, Tsay Keh Dene proposed that discussions on the draft consultation agreement be postponed until their Natural Resource Director was available to meet. BC Hydro agreed to wait until Tsay Keh Dene was available.

On September 27, 2011, BC Hydro sent a letter to Tsay Keh Dene regarding the draft Stage 3 consultation agreement that BC Hydro had received on June 20, 2011. In an effort to move forward with the consultation agreement, BC Hydro had reviewed the draft and made a number of changes, reflected in a revised draft (attached). BC Hydro reviewed the history of previous engagement with respect to the Stage 3 consultation agreement, and suggested that the parties meet to discuss how to move forward with concluding the agreement.

On September 30, 2011, BC Hydro sent an email to Tsay Keh Dene 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 26, 2011, BC Hydro sent an email to Tsay Keh Dene, attaching a copy of a chart depicting projected jobs for the Project, as requested by Tsay Keh Dene.

On January 5, 2012, BC Hydro sent a letter to Tsay Keh Dene in follow up to BC Hydro's letter of September 27, 2011, and recent discussions between the Chiefs of Tsay Keh Dene and Kwadacha about upcoming meetings between BC Hydro and Kwadacha. The letter provided an update on the status of the regulatory process, and a review of consultation events with Tsay Keh Dene related to the Project. The letter noted that BC Hydro had concluded a consultation agreement with Kwadacha in November 2010, and remained interest in concluding a consultation agreement with Tsay Keh Dene. The letter extended an invitation to attend upcoming meetings between BC Hydro and Kwadacha, and provided the schedule of meeting dates. The letter added that if Tsay Keh Dene preferred to meet independently of Kwadacha, then BC Hydro would be pleased to do so. The letter asked for

direction as to how Tsay Keh Dene wished to proceed with respect to upcoming meetings and finalizing the draft consultation agreement.

On May 23, 2012, BC Hydro sent a letter to Tsay Keh Dene regarding the identification of Valued Components and spatial boundaries for the Environmental Assessment, and expressed its desire to consult further with Tsay Keh Dene 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 Tsay Keh Dene regarding the proposed Valued Components and related spatial boundaries.

On May 25, 2012, BC Hydro sent a letter to Tsay Keh Dene 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 August 22, 2012, BC Hydro sent a letter to Tsay Keh Dene, in follow up to BC Hydro's letter of May 25, 2012, providing a password to access the secured file transfer website for Aboriginal groups. The letter advised that BC Hydro would be uploading a new set of documents to the website (primarily PowerPoint presentations on key project components), which contained sensitive information not yet in the public domain. The letter sought Tsay Keh Dene's confirmation that persons with access to the password would not disclose any confidential information, and advised that the confidential materials would be made accessible upon BC Hydro's receipt of the attached confidentiality agreement.

On August 27, 2012, BC Hydro sent a letter to Tsay Keh Dene 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 September 10, 2012, BC Hydro called and spoke with a representative of Tsay Keh Dene. BC Hydro asked if it would be possible to meet with Tsay Keh Dene on September 13, 2012. Tsay Keh Dene advised that, because they would be occupied in a Band Council meeting scheduled for that day, Chief and Council would be unavailable to meet with BC Hydro.

On September 21, 2012, BC Hydro sent a letter to Tsay Keh Dene 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 Tsay Keh Dene, 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 Tsay Keh Dene to continue to identify any interests the community may have had with respect to potential social, economic, health and physical and cultural heritage effects of the Project.

On October 16, 2012, BC Hydro sent an email to Tsay Keh Dene, attaching an invitation to Site C Business Information Sessions taking place in various locations (Chetwynd, Dawson Creek, Fort St. John, Vancouver, Prince George) during the month of November, including a link for registration.

On October 25, 2012, BC Hydro sent a letter to Tsay Keh Dene in follow up to BC Hydro's letter of September 21, 2012, which had invited Tsay Keh Dene to provide any relevant information for consideration in preparing the EIS. The letter advised that BC Hydro remained interested in receiving information from Tsay Keh Dene to support the preparation of the EIS.

On November 15, 2012, BC Hydro sent a letter to Tsay Keh Dene which sought to address potential gaps in the information exchange between the parties. The letter requested that Tsay Keh Dene 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.

<u>Distribution of Field Studies Overview</u>

BC Hydro sent emails to Tsay Keh Dene providing the *Field Studies Overview* outlining the field studies taking place in the coming months. Emails were sent to Tsay Keh Dene on the following dates:

- 2011: January 27, February 4, March 4, March 24, April 4, April 29, June 1, June 28, July 15, July 29, August 12, August 22, September 29, October 24, November 28.
- 2012: January 27, March 1, May 1, October 5, November 2

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A27 PART 2(A)

UPDATED BC HYDRO CONSULTATION SUMMARY: TSAY KEH DENE 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.

TSAY KEH DENE FIRST NATION

CONSULTATION SUMMARY

Defined Terms	
"BCEAO"	Environmental Assessment Office, Province of British Columbia
"CEA Agency"	Canadian Environmental Assessment Agency
"EIS"	Environmental Impact Statement
"Final Agreement"	Final Agreement between Tsay Keh Dene First Nation, the Province of British Columbia and BC Hydro, dated August 31, 2009, to resolve all past, present and future issues, grievances and claims related, directly or indirectly, to the impacts of the W.A.C. Bennett Dam, the Peace Canyon Dam, the Williston Reservoir, and the Dinosaur Reservoir, on Tsay Keh Dene First Nation
"the Project"	proposed Site C Clean Energy Project
"Tsay Keh Dene"	Tsay Keh Dene First Nation

Chronology of events

2012

On December 13, 2012, BC Hydro sent a letter to Tsay Keh Dene, 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.

2013

On January 28, 2013, BC Hydro sent a letter to Tsay Keh Dene, advising that it had submitted the EIS to the 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, Chu Cho Enterprises Ltd., a Tsay Keh Dene owned company, called BC Hydro to discuss its capacity and interests in opportunities associated with the Project. Chu Cho Enterprises Ltd. indicated that it had direction from Tsay Keh Dene to contact BC Hydro regarding contracting opportunities because of the commitments made in the Final Agreement. BC Hydro advised that its commitment was to provide Tsay Keh Dene with information regarding the opportunities and indicated that it was currently in the process of gathering information about local companies and regional capacity and interest. BC Hydro indicated that it had an interest in meeting with Tsay Keh Dene to discuss the Project. BC Hydro provided a high level update regarding the Project schedule, the recent submission of the EIS and indicated that work could not get underway in advance of approval through the Environmental Assessment process. BC Hydro committed to providing Chu Cho Enterprises Ltd. with a link to the Project website to the November 2012 business information sessions.

On February 4, 2013, Chu Cho Enterprises Ltd. sent an email to BC Hydro, attaching its resume and equipment list.

On February 4, 2013, BC Hydro sent an email to Chu Cho Enterprises Ltd., attaching links to the Site C Business Opportunities webpage and to a report from the Business Information Sessions held in November, 2012.

On March 4, 2013, Chu Cho Enterprises Ltd. called BC Hydro to discuss Project-related economic opportunities and other matters. Chu Cho Enterprises Ltd. indicated that Tsay Keh Dene's interest in the Project was focused on economic opportunities at present. BC Hydro offered to re-send information Chu Cho Enterprises Ltd. regarding projected employment and contracting opportunities and how and when the opportunities might be packaged and tendered. BC Hydro confirmed receipt of Chu Cho Enterprises Ltd.'s resume and equipment list and indicated that it had been forwarded to the relevant BC Hydro team members.

On March 4, 2013, BC Hydro sent an email to Chu Cho Enterprises Ltd., attaching: (1) a chart showing the projected employment opportunities; and (2) a section of the Site C Business Case outlining the contracting opportunities that would likely be available if the Project were to proceed. BC Hydro advised that it had set aside funding in the form of bursaries, half of which was exclusive for Aboriginal people, to attend Northern Lights College in Fort St. John. BC Hydro provided a link to the Northern Lights College website and advised that Tsay Keh Dene members would be provided priority for the funding.

On March 13, 2013, BC Hydro met with Tsay Keh Dene and Chu Cho Enterprises Ltd., to discuss potential business opportunities with the Project. Tsay Keh Dene confirmed that its purpose for attending the meeting was to discuss business opportunities as set out in the Final Agreement with BC Hydro. Chu Cho Enterprises Ltd. provided an overview of its capacity, work experience and interests in pursuing contracting opportunities. BC Hydro provided a Project update, information on its procurement approach, preliminary information on the construction phase workforce and information on the funding available to Tsay Keh Dene members for trades training. BC Hydro noted that training could potentially be offered at the New Caledonia College. Tsay Keh Dene asked if training could be offered in the community as it had a newly built adult learning centre. BC Hydro agreed to follow up on this suggestion.

On March 18, 2013, BC Hydro sent an email to Tsay Keh Dene and Chu Cho Enterprises Ltd., attaching a document titled "Procurement Approach and Risk Management and Average Annual Workforce Summary" that was provided in hard-copy at the meeting held on March 13, 2013. BC Hydro advised that it was interested in scheduling future meetings to discuss the Project and related economic opportunities.

On April 12, 2013, Tsay Keh Dene (Forester) called BC Hydro to discuss the EIS and asked for suggestions on where to start its review within the document. BC Hydro advised Tsay Keh Dene of some key areas of the EIS (appendices in Volume 5 relating

to Tsay Keh Dene and Sections 19 and 34). BC Hydro explained that those sections of the EIS looked at the assessment of effects on current use of lands and resources and of impacts to the exercise of rights. Tsay Keh Dene noted some concerns with respect to the Project and asked whether there had been engagement with Tsay Keh Dene in the past. BC Hydro indicated that there was quite a lot of engagement and that a consultation agreement was substantively agreed to in 2010, but it had not been completed. BC Hydro advised that it had made several attempts to re-engage and that Tsay Keh Dene and Chu Cho Enterprises Ltd. had met with BC Hydro on March 13, 2013. BC Hydro indicated that there was another meeting scheduled for April 23, 2013 which Tsay Keh Dene had been invited to and stated that the parties would be discussing potential training opportunities as related to trades training on the Project. BC Hydro explained the process for submitting comments to the CEA Agency and the BCEAO, and that BC Hydro would be reviewing and responding to those comments and that Tsay Keh Dene would see the responses as a member of the Advisory Working Group. Tsay Keh Dene indicated that it had had discussions with the CEA Agency about its concerns and BC Hydro encouraged Tsay Keh Dene to submit written comments before the deadline if possible in order for BC Hydro respond to them. BC Hydro offered to meet with Tsay Keh Dene to discuss the Project.

On April 15, 2013, Chu Cho Enterprises Ltd., a Tsay Keh Dene-owned company sent an email to BC Hydro, attaching a completed registration form for the Site C Business Directory.

On April 23, 2013, BC Hydro met with representatives of Kwadacha First Nation and McLeod Lake Indian Band to discuss training, procurement and employment opportunities associated with the Project. Tsay Keh Dene was invited but did not attend the meeting.

Distribution of Field Studies Overview

BC Hydro sent emails to Tsay Keh Dene providing the *Field Studies Overview* outlining the field studies taking place in the coming months. Emails were sent to Tsay Keh Dene on the following dates in 2013: January 23, February 12, March 28 and May 14.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A27 PART 3

ABORIGINAL LAND AND RESOURCE USE SUMMARY: TSAY KEH DENE 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

Tsay Keh Dene First Nation (TKDFN)

In preparing responses to these questions, a limited number of published and unpublished reports were consulted for information on Tsay Keh Dene First Nation (TKDFN) traditional land and resource uses.[1] BC Hydro did not enter into a Traditional Land Use Study agreement with TKDFN, and no traditional land use information was made available by TKDFN for consideration in this review.

The Tsay Keh Dene First Nation, known previously as the Ingenika Band, are a Tsek Keh Ney (Sekani) people who occupy the Rocky Mountain Trench area of northern British Columbia.[2] The TKDFN are closely related by kinship and intermarriage to the Kwadacha First Nation and the Takla Lake First Nation. The three First Nations act as an alliance, the Tse Keh Nay First Nations, when dealing with issues in areas of common geographic interest.[3] In 2007, the territory of the three First Nations was described as that part of the Rocky Mountain Trench that is drained by the Finlay and Parsnip Rivers. The territory extends north to the confluence of the Kechika and Gataga Rivers, and to the west of Takla Lake, Bear Lake, and Kitchener Lake (Figure 1).[4]

TKDFN traditional territory is centred on the Williston Reservoir, and extends north to Mount Trace, west to South Pass Peak, south to Nation River, and east to Mount Laurier (Figure 2).[5] The main TKDFN community is located at the north end of the Williston Reservoir. The TKDFN has three Indian Reserves (Police Meadow IR No. 2, Tutu Creek IR No. 4, Parsnip IR No. 5), and two federal land parcels (Ingenika Settlement, Mesilinka) that are to be converted to Indian Reserves. The registered population of TKDFN in December 2012 was 447, of who 66 live on-Reserve.[6]

1. What is the Tsay Keh Dene First Nation'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

[1] The sources consulted for this study are set out in the References. Two studies of TLU interest were identified but were not located for this report: Tsay Keh Dene Traditional Use Study: Understanding the Land and People." Prepared by TKD and D.M. Cultural Services Ltd., 2002; and "A Summary Report of the Tsay Keh Dene: Then & Now." Vanden Berg & Associates 2003.

[2] In earlier records the spelling is Sekani. See Denniston, Glenda (1981). "Sekani."; Jenness, Diamond (1937). *The Sekani Indians of British Columbia*.

[3] For example, Tse Keh Nay First Nations and Province of British Columbia (2008). "Tse Keh Nay - BC Protocol Agreement for Reclamation, Remediation and Monitoring Of Mine Sites." December 2008; Littlefield, Lorraine et al (2007). "Tse Keh Ney Traditional and Contemporary Use and Occupation at Amazay (Duncan Lake): A Draft Report." Draft Submission to the Kemess North Joint Review Panel, May 2007.

[4] Littlefield, Lorraine et al (2007). "Tse Keh Ney Traditional and Contemporary Use and Occupation at Amazay (Duncan Lake): A Draft Report": 1.

[5] BC Treaty Commission (nd.) Map of Tsay Keh Dene Traditional Territory. www://bctreaty.net/nations/tsaykeh/php.

[6] AANDC. First Nation Profiles http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNRegPopulation.aspx?BAND_NUMBER=609&lang=eng

Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs?

No specific information was identified that described or documented current TKDFN use of lands and resources in the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs for hunting, fishing or trapping activities.

2. **What is the Tsay Keh Dene First Nation'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?**

   No specific information was identified that described or documented current TKDFN use of lands and resources in 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 activities.

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

   TKDFN continue to live a lifestyle largely based on the lands and resources within their traditional territory (see Figure 1).[7] No information was identified that described or documented TKDFN exercise of asserted Aboriginal rights within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs.

4. **Identify past, current and reasonably anticipated future use of lands and resources by Tsay Keh Dene First Nation members for traditional purposes who may be adversely impacted by the project within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs?**

   No specific information was identified that described or documented past, current or reasonably anticipated future TKDFN use of lands or resources in the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs.

[7] Tse Keh Nay First Nations and Province of British Columbia (2008). "Tse Keh Nay - BC Protocol Agreement for Reclamation, Remediation and Monitoring of Mine Sites." December 2008: 6.

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?

BC Hydro did not enter into a Traditional Land Use Study agreement with TDKFN, and no traditional land use information was made available by TDKFN for consideration in this review.

TKDFN traditional territory, as described by the BC Treaty Commission and set out in the TKDFN Statement of Intent for the BC Treaty Commission, extends north to Mount Trace, west to South Pass Peak, south to Nation River, and east to Mount Laurier (Figure 1).[8] This depiction of TDKFN traditional territory is also the area in which BC Hydro and TKDFN reached a Settlement Agreement in 2006. The Agreement also included provisions relating to the area of the Project (8.9 Future Projects Planning and Schedule 5. Information Sharing Area).[9]

[8] BC Treaty Commission (nd.) Map of Tsay Keh Dene Traditional Territory. www://bctreaty.net/nations/tsaykeh/php

[9] Tsay Keh Dene First Nation, BC Hydro, Province of British Columbia (2006). "Tsay Keh Dene First Nation Settlement Negotiations. Agreement in Principle." April 1, 2006.

Figure 1. Overview map depicting key features and Places in Tse Keh Nay Territory (from Littlefield, Lorraine et al (2007). "Tse Keh Ney Traditional and Contemporary Use and Occupation at Amazay (Duncan Lake): A Draft Report": 3).

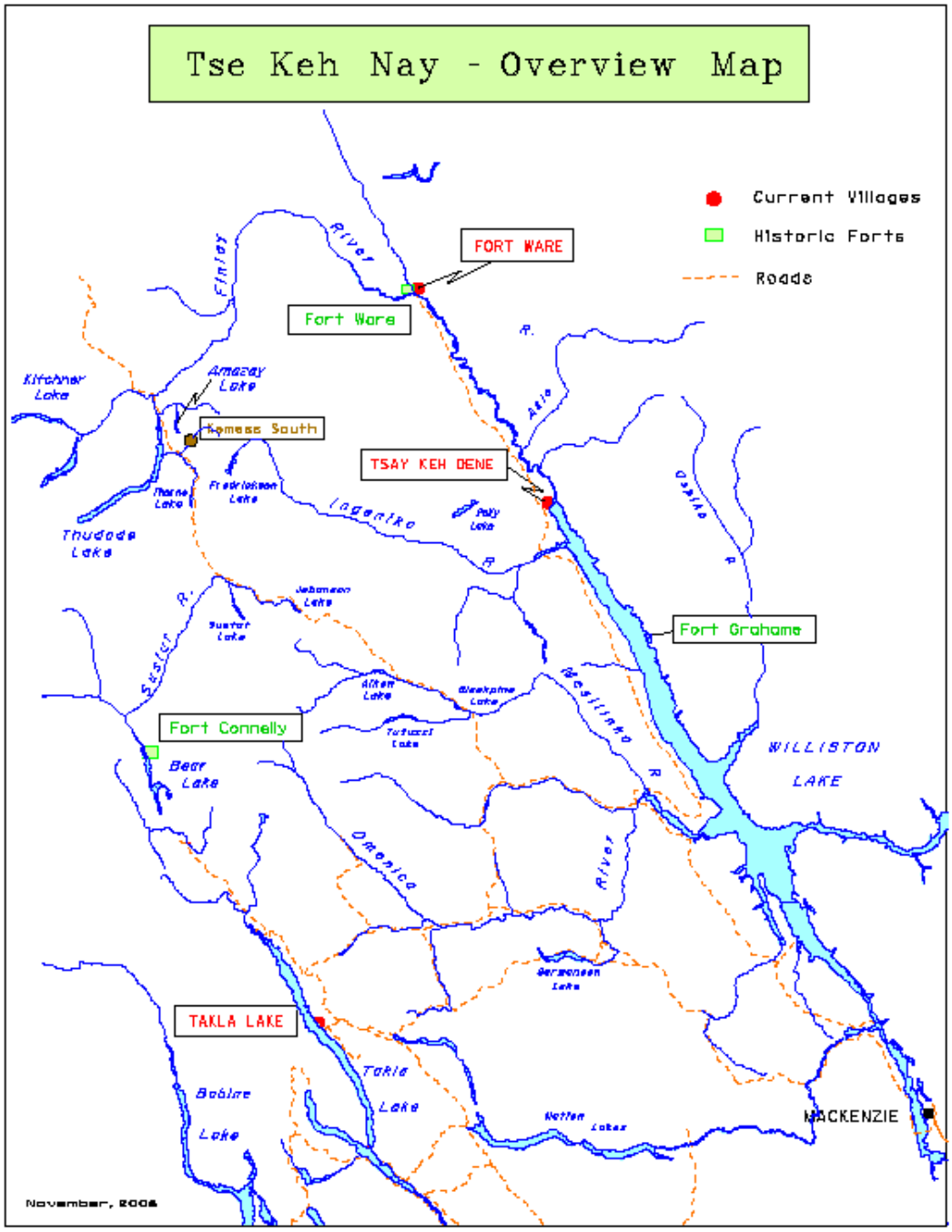
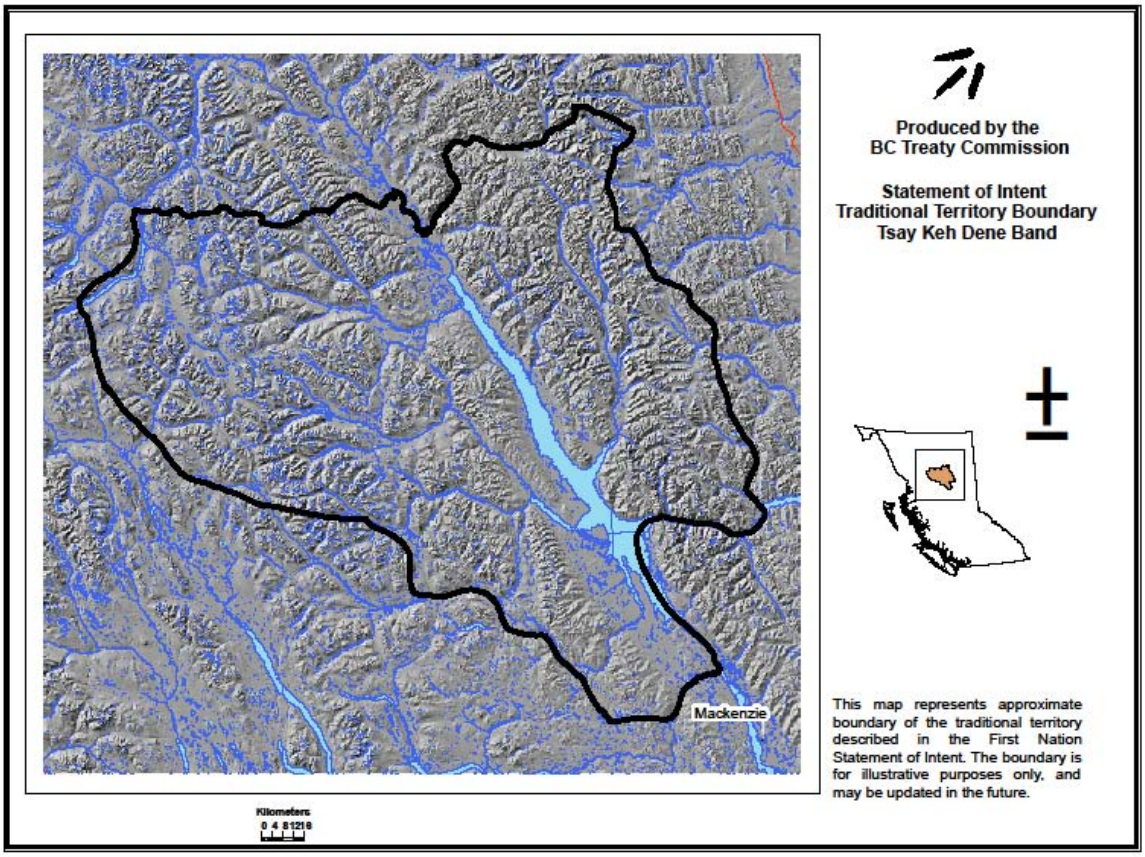


Figure 2. Tsay Keh Dene Traditional Territory (BC Treaty Commission (nd.) Map of Tsay Keh Dene Traditional Territory. www://bctreaty.net/nations/tsaykeh/php).



References

Aboriginal Affairs and Northern Development Canada. First Nation Profiles http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNRegPopulation.aspx?BAND_NUMBER=609&lang=eng

BC Treaty Commission (nd.) Map of Tsay Keh Dene Traditional Territory. www://bctreaty.net/nations/tsaykeh/php.

Denniston, Glenda (1981). "Sekani." In June Helm, editor. *Subarctic. Volume 6, Handbook of North American Indians.* Washington, D.C.: Smithsonian Institution, pages 433-441.

Overview anthropological article on the Sekani based largely on the work of Jenness.

Jenness, Diamond (1937). The Sekani Indians of British Columbia. *Anthropological Series 20, National Museum of Canada Bulletin 84*, Ottawa: 8.

The major ethnography of the Sekani based on field study in 1924.

Littlefield, Lorraine et al (2007). "Tse Keh Ney Traditional and Contemporary Use and Occupation at Amazay (Duncan Lake): A Draft Report." Draft Submission to the Kemess North Joint Review Panel, May 2007.

http://www.ceaa.gc.ca/050/documents_staticpost/cearref_3394/hearings/SM01.pdf
Tsay Keh Dene First Nation, BC Hydro, and Province of British Columbia (2006). "Tsay Keh Dene First Nation Settlement Negotiations. Agreement in Principle." April 1, 2006. http://www.gov.bc.ca/arr/treaty/key/down/tkd_aip.pdf

Tsay Keh Dene First Nation, BC Hydro, and Province of British Columbia (2009). "Tsay Keh Dene First Nation Final Agreement." August 31, 2009. http://www.gov.bc.ca/arr/treaty/key/down/tka_fa_aug_31_2009.pdf

Tse Keh Nay First Nations and Province of British Columbia (2008). "Tse Keh Nay - BC Protocol Agreement for Reclamation, Remediation and Monitoring of Mine Sites." December 2008. http://www.gov.bc.ca/arr/treaty/down/tkn_final_agreement.pdf

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A27 PART 4

ABORIGINAL SUMMARY:
TSAY KEH DENE 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

Tsay Keh Dene First Nation

As required by Section 20.8 of the EIS Guidelines, the following summary presents BC Hydro's understanding of Tsay Keh Dene 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 asserted or established Aboriginal rights and interests of Tsay Keh Dene First Nation.

Tsay Keh Dene First Nation's Asserted or Established Aboriginal Rights

The existing Aboriginal rights of the Aboriginal peoples of Canada are recognized and affirmed in section 35(1) of Canada's *Constitution Act, 1982*. The Supreme Court of Canada has found "in order to be an Aboriginal right an activity must be an element of practice, custom or tradition integral to the distinctive culture of the Aboriginal group claiming the right." (*Van der Peet*, para. 46). The current practice must be rooted in an activity that the Aboriginal group practiced before contact with Europeans (*Van der Peet*, paras. 60-62).

Aboriginal title is a kind of Aboriginal right arising where the "connection of a group with a piece of land 'was of central significance to their distinctive culture.'" (*Delgamuukw*, para. 137). In order to establish Aboriginal title, the Aboriginal group must have occupied the land prior to sovereignty, and that occupation must have been exclusive (*Delgamuukw*, para. 143).

Tsay Keh Dene First Nation as well as Kwadacha First Nation have each asserted they hold Aboriginal rights. As well, various other Treaty 8 First Nations listed in Table 34.1 of Volume 5 Section 34 Asserted or Established Aboriginal Rights and Treaty Rights, Aboriginal Interests and Information Requirements have asserted Aboriginal rights in addition to their treaty rights. BC Hydro is unaware of any established Aboriginal rights or title held by Tsay Keh Dene Band, Kwadacha First Nation, or other Aboriginal groups listed in Table 34.1, outside of treaty rights.

For a more thorough discussion of Aboriginal rights, see Section 34.3.2.2 of Volume 5 Section 34 Asserted or Established Aboriginal Rights and Treaty Rights, Aboriginal Interests and Information Requirements.

Tsay Key Dene First Nation's Concerns with Respect to the Project

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

Air - Microclimate
Concern about the potential effects of the Project on local climate and weather patterns including changes in cloud, humidity, wind and tornadoes.
Aboriginal Interests – Aboriginal employment, contracting and business development
Concerns related to contracting and procurement opportunities including: - Insufficient notice of Requests For Proposals (RFPs) related to the Project and lack of meaningful involvement in the RFP process from the outset
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, including their ability to exercise section 35(1) rights. Asserted impacts include: - Assertion that there is lack of dialogue with BC Hydro regarding past grievances related to the W.A.C. Bennett and Peace Canyon dams
Opposition to the Project while past grievances related to the Peace Canyon and W.A.C. Bennett Dams remain outstanding.

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.

<u>Potential Adverse Effects of the Project on Tsay Keh Dene First Nation's Asserted or Established Aboriginal Rights</u>

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 Tsay Keh Dene 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 asserted or established Aboriginal rights by the Tsay Keh Dene First Nation.

Consultation is ongoing between BC Hydro and the Tsay Keh Dene First Nation, and may yield additional information on the Tsay Keh Dene First Nation's current and reasonably anticipated future use of lands and resources that may potentially be affected by the Project. Should Tsay Keh Dene 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.