SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A24 PART 1

COMMUNITY SUMMARY:
SMITH'S LANDING FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

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Prepared by:

Fasken Martineau

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January 2013

Smith's Landing First Nation

Smith's Landing First Nation (SLFN) has 10 reserves in and around the Wood Buffalo National Park along the Alberta/Northwest Territories border near Fort Smith totalling 10,049.7 ha.[1]

According to Aboriginal Affairs and Northern Development Canada, as of December 2012, SLFN has a registered population of 331, with 158 members living on their own Crown land.[2] SLFN has a Chief and four Councillors. and uses a custom electoral system.[3]

The SLFN is an independent member of the Treaty 8 First Nations of Alberta.[4]

Historical Background

The SLFN is a part of the Chipewyan linguistic group.[5]

The Chipewyan Indians of Slave River adhered to Treaty 8 on July 17, 1899 at Smith's Landing.[6]

The Chipewyan Indians of Slave River consisted of two distinct bands: the *Dedharesche* (now recognized as the Salt River First Nation #195) and the *Thebatthie* (now recognized as the SLFN). However, Canada traditionally recognized the two as one band, the Fitz-Smith Native Band and later the Salt River First Nation #195 (the Consolidated Band). In 1988, the Consolidated Band passed a Band Council Resolution to divide governance back into the two traditionally distinct bands. Since then, the two have been operating under the names of Salt River First Nation #195 and SLFN. Since 1992, the two bands conducted concurrent but independent treaty land entitlement negotiations.[7]

Treaty Land Entitlement Agreement

On May 6, 2000, SLFN signed their final Treaty Land Entitlement Agreement. Under the agreement, Alberta provided SLFN with 7,600 ha of unoccupied Crown land and

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[1] Aboriginal Affairs and Northern Development Canada (AANDC). 2012. *First Nation Detail, Smith's Landing First Nation.* Available at: http://pse5-esd5.ainc-inac.gc.ca/FNP/Main/Search/FNMain.aspx?BAND_NUMBER=477&lang=e. Accessed: December 2012 ("AANDC, Smith's Landing First Nation"); Smith's Landing First Nation. *Land and Environment*. Available at: < http://www.smithslanding.com/livelihood/land-and-environment/. Accessed: November 2012.

[2] AANDC, Smith's Landing First Nation.

[3] AANDC, Smith's Landing First Nation.

[4] Treaty 8 First Nations of Alberta. 2012. *List of Nations*. Available at: http://treaty8.ca/default.aspx?ID=9&page=List of Nations. Accessed: December 2012.

[5] Alberta Ministry of Aboriginal Relations (AB MAR). 2010. *Métis Settlements and First Nations in Alberta: Community Profiles.* Available at: http://www.aboriginal.alberta.ca/documents/MetisSettlement_FirstNation_Profile.pdf. Accessed: December 2012 at 51.

[6] Northwest Territories Department of Aboriginal Affairs and Intergovernmental Relations. 2001. *Salt River First Nation Treaty Settlement Agreement, November 13, 2001*. Available at: http://www.daair.gov.nt.ca/_live/documents/content/Salt_River_Treaty_Agreement.pdf. Accessed: December 2012 ("Salt River First Nation Treaty Settlement Agreement") at 1.

[7] Salt River First Nation Treaty Settlement Agreement at 2-3.

$3.2 million; and Canada provided approximately 1,000 ha of additional land within Wood Buffalo National Park and $28 million.[8]

Traditional Territory Map

No map was provided to BC Hydro by SLFN.

[8] Aboriginal Affairs and Northern Development Canada . 2000. *NWT Plain Talk, August 2000 Edition.* Available at: http://www.aadnc-aandc.gc.ca/eng/1100100025879/1100100025893. Accessed: December 2012.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A24 PART 2

BC HYDRO CONSULTATION SUMMARY: SMITH'S LANDING FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

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Prepared by:

Site C First Nations Engagement Team

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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.

SMITH'S LANDING FIRST NATION

CONSULTATION SUMMARY

Defined Terms	
"BCEAO"	Environmental Assessment Office, Province of British Columbia
"CEA Agency"	Canadian Environmental Assessment Agency
"EIS"	Environmental Impact Statement
"Potential Downstream Changes Report" or "Downstream Report"	Site C Clean Energy Project, *Potential Downstream Changes* (BC Hydro, May 2012)
"Site C" or "the Project"	The proposed Site C Clean Energy Project
"Smith's Landing"	Smith's Landing First Nation

Key events

2007

- November: BC Hydro made initial contact with Smith's Landing and expressed its commitment to effective consultation with respect to the Project.

2008

- April: BC Hydro wrote to Smith's Landing and expressed interest in scheduling an introductory meeting to provide an overview of the Project and develop a consultation plan. The letter attached the Stage 1 Summary Report.
- September: BC Hydro wrote to Smith's Landing and advised that it would be available to travel to the Northwest Territories in the second half of October, and requested an introductory meeting to develop a plan for future consultation.
- November: A meeting was scheduled with the Chief and Council of Smith's Landing, but it was cancelled due to flight problems and re-scheduled to February 2009.

2009

- February: BC Hydro met with the Chief and Council of Smith's Landing and provided an introductory Project overview. BC Hydro expressed interest in entering into a consultation agreement and tabled a capacity funding offer. BC Hydro provided Smith's Landing with a copy of the Stage 1 Completion Report.
- March: BC Hydro provided Smith's Landing with a draft Stage 2 consultation agreement.
- June/July: The parties engaged in negotiations with respect to the draft Stage 2 consultation agreement, and Smith's Landing submitted a revised draft to BC Hydro on July 3. BC Hydro wrote to Smith's Landing on July 8 and advised that it was no longer practical to negotiate a Stage 2 consultation agreement, as the window of time to complete work in Stage 2 had almost closed. Smith's Landing responded on July 14 advising that it did not see any reason to delay the consultation process until Stage 3. BC Hydro responded on July 28 and sought to reassure Smith's Landing that it remained committed to concluding a consultation agreement, and that the capacity funding offered in Stage 2 would be added to any funding identified in Stage 3.

2010

- April: BC Hydro advised Smith's Landing of the provincial government's announcement that the Project would move forward to Stage 3, and provided a link to a website containing the Stage 2 Report and 35 appended studies and reports.
- September: BC Hydro wrote to Smith's Landing and attached a draft Stage 3 consultation agreement.

2011

- January: BC Hydro met with representatives of Smith's Landing to provide a Project update and discuss the draft Stage 3 consultation agreement. Smith's Landing indicated that capacity funding would be needed to support the negotiation of the consultation agreement, and BC Hydro invited Smith's Landing to submit a funding proposal.

- February: BC Hydro provided Smith's Landing with a copy of the Stage 2 Review of Potential Downstream Changes from Site C Operations: Preliminary Findings (October 2009).

- March: BC Hydro provided Smith's Landing 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.

- May: BC Hydro advised Smith's Landing that it had submitted the Project Description Report and provided a link to the report.

- June: BC Hydro met with representatives of Smiths' Landing to provide a Project update and to provide a presentation on the downstream effects of hydroelectric power generation, and to generate discussion about issues of concern to Smith's Landing. BC Hydro's Senior Engineer and Hydrology Expert reviewed the findings of preliminary Project studies, summarized as follows:

  - Flows/Water levels: BC Hydro reported that it was likely that changes to water and flow levels would be more notable closer to the dam, however these changes would be increasingly less noticeable downstream. BC Hydro explained that it did not expect any notable changes at the Peace-Athabasca Delta.

  - Ice regime: BC Hydro reviewed potential changes in the ice regime as a result of the Project, explaining that the maximum ice front progressions would be expected to be less than present, and the timing of ice formation and breakup may shift. BC Hydro advised that the ice model extended only to the Fort Vermilion area, as changes were not anticipated past that point.

  - Contaminants and sediment transport: BC Hydro explained that hydroelectric water use was non-polluting and that a contaminated sites assessment was being conducted within the reservoir area and adjacent shoreline. BC advised that changes to sediment load would not have a notable impact on the river channel downstream.

  BC Hydro advised that it remained interested in concluding a Stage 3 consultation agreement. Smith's Landing advised that it would consider the draft Stage 3 consultation agreement, and hoped to be in a position to complete an agreement by

the fall of 2011.

- BC Hydro met with representatives from Smith's Landing to provide a Project update and a presentation on the downstream effects of hydroelectric power generation, to generate discussion about issues of concern to Smith's Landing. BC Hydro advised that it remained interest in negotiating a Stage 3 consultation agreement; Smith's Landing indicated that it might be in a position to conclude an agreement by the fall of 2011.

2012

- February: BC Hydro wrote to Smith's Landing to provide an update on the progress towards completing the updated Downstream Report, and included an overview of preliminary study results. BC Hydro offered to meet with Smith's Landing to review the preliminary results.

- May:

  - BC Hydro provided Smith's Landing 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 Smith's Landing 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 Smith's Landing.

- August: BC Hydro met with Smith's Landing to provide a Project update and a presentation on potential downstream changes. Smith's Landing expressed concerns related to the need for the Project, the use of electricity and BC's Integrated Resource Plan, reservoir spilling, the potential impacts on fish and wildlife, and cumulative effects.

- September/October: BC Hydro wrote to Smith's Landing 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 Smith's Landing 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 Smith's Landing's current use of lands and resources for hunting fishing and trapping, and other purposes, and information regarding how the Project would affect Smith's Landing'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.

Chronology of events

On November 21, 2007, BC Hydro sent an introductory letter to Smith's Landing 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 Smith's Landing 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 indicated 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 Smith's Landing in the upcoming weeks to set up an introductory meeting. The letter attached the Stage 1 Summary Report.

On September 26, 2008, BC Hydro sent a letter to Smith's Landing in follow up to its letter of April 10, 2008. The letter advised that BC Hydro would be available to travel to the Northwest Territories in the second half of October, and requested an introductory meeting with Salt River to develop a plan for future consultation. The letter enclosed a further copy of the Stage 1 Summary Report.

On November 3, 2008, a meeting that was originally scheduled with Smith's Landing's Chief and Council was cancelled due to flight problems. Instead, BC Hydro met with two representatives of Smith's Landing (Councillor, Land and Resource Coordinator) and agreed to re-schedule the meeting with Chief and Council. BC Hydro provided the following documents:

- Summary: Stage 1 Review of Project Feasibility (December 2007).
- BC Hydro Peace River Site C Hydro Project: Project Definition Consultation, Round 1 Summary Report (September 26, 2008).
- Project Definition Consultation Discussion Guide and Feedback Form, Round 1: May/June 2008.
- Project Definition Consultation Discussion Guide and Feedback Form, Round 2: October/November 2008.

On February 18, 2009, BC Hydro met with representatives of Smith's Landing (Chief, four Councillors, Consultation Officer, Land and Resource Manager). BC Hydro provided an overview of the Project and took questions from meeting participants. Smith's Landing expressed concern about changes in water levels and icing in the Peace River, which it attributed to water releases from the Williston Reservoir, including unusually high water levels in the past three weeks. Smith's Landing asked if it could receive notification of flow releases from the Williston Reservoir, and BC Hydro agreed to look into this. BC Hydro expressed interest in entering into a consultation agreement with Smith's Landing and tabled a capacity funding offer. BC Hydro agreed to send a draft version of a Stage 2 consultation agreement for Smith's Landing to review. Smith's Landing requested a hard copy of the Stage 1 Completion Report.

On February 20, 2009, BC Hydro sent a letter to Smith's Landing in follow up to the meeting of February 18, 2009, and enclosed the Site C Feasibility Review: Stage 1 Completion Report (December 2007).

On March 4, 2009, BC Hydro sent an email to Smith's Landing attaching a draft Stage 2 consultation agreement. BC Hydro asked that Smith's Landing review the document and suggested that the parties complete the negotiations via teleconference.

On June 19, 2009, BC Hydro met via teleconference with representatives of Smith's Landing (Land and Resources Manager, legal counsel). The parties reviewed the draft Stage 2 consultation agreement and agreed to a number of revisions.

On July 3, 2009, Smith's Landing sent an email to BC Hydro and attached a revised version of the draft Stage 2 consultation agreement.

On July 8, 2009, BC Hydro responded via letter to Smith's Landing email of July 3, 2009. The letter advised that due to the passage of time, it was no longer practical for the parties to negotiate a Stage 2 consultation agreement, as the window of time to complete work in Stage 2 had almost closed. The letter clarified that, if the Project proceeded to Stage 3, BC Hydro would seek to develop a Stage 3 consultation agreement with Smith's Landing at the earliest opportunity.

On July 8, 2009, BC Hydro sent a letter to Smith's Landing in response to inquiries made by Smith's Landing at the meeting of February 18, 2009 regarding notification of flow releases from the Williston Reservoir and unusual flow releases in the three week period prior to the meeting. The letter identified sources of the following publicly available information: a BC Hydro website which provided hourly flow information for sites within B.C., and a Water Survey of Canada website, which provides information on sites throughout Canada, including those on the Peace River. The letter described the regular adjustments made to flows at BC Hydro's Peace River facilities, and suggested that the fluctuations in water levels observed by Smith's Landing were likely too large to be caused by changes in BC

Hydro's operations. The letter listed a number of other factors that may have caused or contributed to the unusual flow levels observed by Smith's Landing. The letter offered to include Smith's Landing on the list of parties to be notified in the event of a spill at BC Hydro's Peace River facilities.

On July 14, 2009, Smith's Landing responded to BC Hydro's letter of July 8, 2009, regarding the consultation agreement negotiations. Smith's Landing expressed concern that BC Hydro was refusing to consult with Smith's Landing regarding the potential effects of the Project on its section 35(1) rights, and emphasized the need for funding and adequate time to enable Smith's Landing to retain a hydrologist to review BC Hydro's technical studies. Smith's Landing did not see any reason to delay the consultation process until Stage 3, and considered its input to be worthy of consideration as BC Hydro made a decision on whether or not to proceed to Stage 3. Smith's Landing requested a timely response from BC Hydro to the revised draft of the Stage 2 consultation agreement provided on July 2, 2009.

On July 28, 2009, BC Hydro responded to Smith's Landing's letter dated July 14, 2009, and sought to reassure Smith's Landing that (a) BC Hydro remained committed to completing a consultation agreement, (b) Smith's Landing would be have ample time to assess the hydrology studies provided by BC Hydro, and (c) the capacity funding offered in Stage 2 would be added to any funding identified for Smith's Landing in Stage 3.

On April 19, 2010, BC Hydro sent an email to Smith's Landing advising that the Government of B.C. had announced that the Project would move forward to Stage 3, the Regulatory and Environmental Assessment Stage. The email also provided a link to the Project website where the final Stage 2 Report and 35 appended studies and reports had been posted.

On September 23, 2010, BC Hydro sent a letter to Smith's Landing and attached a draft Stage 3 consultation agreement for review and consideration by Smith's Landing. BC Hydro expressed interest in meeting with Smith's Landing to discuss the draft agreement and provide an update on the Project.

On January 26, 2011, BC Hydro met with representatives of Smith's Landing (four Councillors, Land and Resources Manager). BC Hydro provided a Project update and reviewed the timelines for the environmental assessment process. Smith's Landing expressed concern about downstream effects including reduced water levels, and cumulative effects from the Project, the W.A.C. Bennett Dam and other activities in the Fort McMurray area. Regarding the concerns related to downstream impacts, BC Hydro advised that it was working to assess the potential downstream effects and agreed to provide Smith's Landing with a copy of the Stage 2 Downstream Report (October 2009). BC Hydro added that the study was being updated and a revised version would likely be ready by the end of 2011. BC Hydro reiterated its interest negotiating a Stage 3 consultation agreement.

Smith's Landing indicated that capacity funding would be needed to support the negotiations, and BC Hydro invited Smith's Landing to submit a funding proposal.

On February 1, 2011, BC Hydro sent an email to Smith's Landing, in follow up to their meeting dated January 26, 2011, and attached the full report and summary of the Stage 2 Review of Potential Downstream Changes from Site C Operations – Preliminary Findings (October 2009). BC Hydro also provided a link to a website containing the full set of Stage 2 reports.

On March 15, 2011, BC Hydro sent a letter to Smith's Landing 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 Smith's Landing 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 Smith's Landing 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 29, 2011, BC Hydro met with representatives of Smiths' Landing (Councillor, Land and Resources Manager). BC Hydro provided a Project update advising that BC Hydro had filed the Project Description Report with the BCEAO and the CEA Agency, but did not yet know if the report had been accepted. BC Hydro explained that its work on the revised Downstream Report had been delayed, and, as a result, it had prepared a presentation of the general impacts of hydroelectric power in a downstream environment as a way to

generate discussion with Smith's Landing about their interests in the ongoing study work. BC Hydro's Senior Engineer and Hydrology Expert reviewed the findings of preliminary Project studies, summarized as follows:

- Flows/Water levels: BC Hydro reported that it was likely that changes to water and flow levels would be more notable closer to the dam, however these changes would be increasingly less noticeable downstream. BC Hydro explained that it did not expect any notable changes at the Peace-Athabasca Delta.

- Ice regime: BC Hydro reviewed potential changes in the ice regime as a result of the Project, explaining that the maximum ice front progressions would be expected to be less than present, and the timing of ice formation and break-up may shift. BC Hydro advised that the ice model extended only to the Fort Vermilion area, as changes were not anticipated past that point.

- Contaminants and sediment transport: BC Hydro explained that hydroelectric water use was non-polluting and that a contaminated sites assessment was being conducted within the reservoir area and adjacent shoreline. BC advised that changes to sediment load would not have a notable impact on the river channel downstream.

BC Hydro advised that it remained interested in concluding a Stage 3 consultation agreement, and noted that it had anticipated receiving a funding proposal from Smith's Landing following the meeting of January 26, 2011. Smith's Landing advised that it would consider the draft Stage 3 consultation agreement, and hoped to be in a position to complete an agreement by the fall of 2011. BC Hydro provided Smith's Landing with a copy of the Project Description Report and a set of Project Information Sheets.

On September 30, 2011, BC Hydro sent an email to Smith's Landing 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 website links to the CEA Agency and BCEAO websites.

On February 8, 2012, BC Hydro sent a letter to Smith's Landing to provide an update on progress towards completing the updated Downstream Report. 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 Smith's Landing to review the interim results or, alternatively, to meet upon completion of the updated report.

On May 4, 2012, BC Hydro sent a letter to Smith's Landing 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 Smith's Landing regarding the identification of Valued Components and spatial boundaries for the Environmental Assessment, and expressed its desire to consult further with Smith's Landing 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 Smith's Landing regarding their proposed Valued Components and related spatial boundaries.

On May 25, 2012, BC Hydro sent a letter to Smith's Landing 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 Smith's Landing, 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 Smith's Landing'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 Smith's Landing 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 28, 2012, BC Hydro met with representatives of Smith's Landing (Chief, Councillor, Land and Resources Manager, Band Manager) to provide a Project overview and a presentation on potential downstream changes. BC Hydro advised that it planned to file its EIS application in early 2013. Smith's Landing expressed concerns related to the need for the Project, the use of electricity and BC's Integrated Resource Plan, reservoir spilling, the potential impacts on fish and wildlife, and cumulative effects. BC Hydro agreed to provide information on the Integrated Resource Plan, the topic summary on Project need, and water licence information for the existing facilities on the Peace River. BC Hydro provided the following documents to Smith's Landing First Nation during the meeting:

- Site C Project Update (spring 2012)
- Downstream Changes Presentation slides (August 2012)

- Map illustrating downstream with project area highlighted
- Potential Downstream Changes Report (May 2012)

On September 21, 2012, BC Hydro sent a letter to Smith's Landing 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 Smith's Landing, 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 Smith's Landing 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 9, 2012, BC Hydro sent a letter to Smith's Landing providing an updated link to the secured file transfer website for Aboriginal groups.

On October 12, 2012, BC Hydro sent an email to Smith's Landing responding to information requests made in the meeting of August 27, 2012, and provided the following:

- A link to the Integrated Resource Plan website;
- A link to the website of the Water Survey of Canada, containing information about water levels at the Hudson's Hope station;
- Topic Summaries prepared by BC Hydro in response to comments on the EIS Guidelines for the topics of Project Need and Purpose, and Alternatives to the Project and Planning;
- Water licenses for the Peace Canyon and G.M. Shrum facilities, and the associated *Water Act* order.

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

On November 15, 2012, BC Hydro sent a letter to Smith's Landing which sought to address potential gaps in the information exchange between the parties. The letter requested that Smith's Landing 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.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A24 PART 2(A)

UPDATED BC HYDRO CONSULTATION SUMMARY: SMITH'S LANDING 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.

SMITH'S LANDING FIRST NATION

CONSULTATION SUMMARY

Defined Terms	
"BCEAO"	Environmental Assessment Office, Province of British Columbia
"CEA Agency"	Canadian Environmental Assessment Agency
"EIS"	Environmental Impact Statement
"the Project"	The proposed Site C Clean Energy Project
"Smith's Landing"	Smith's Landing First Nation

Chronology of events

2012

On December 13, 2012, BC Hydro sent a letter to Smith's Landing, 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 Smith's Landing, 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.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A24 PART 3

ABORIGINAL LAND AND RESOURCE USE SUMMARY: SMITH'S LANDING FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

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Prepared by:

Traditions Consulting Services, Inc.

<contact information removed>

January 2013

Smith's Landing First Nation (SLFN)

In preparing responses to these questions, information on the Smith's Landing First Nation (SLFN) and on current and past use of lands and resources by SLFN was obtained from on-line research.[1] BC Hydro did not enter into a Traditional Land Use Study agreement with SLFN, and no traditional land use information was made available by SLFN for consideration in this review.

The SLFN signed Treaty 8 in 1899 as the Chipewyan Indians of Slave River with two distinct groups, the Dedharesche and the Thebattie. Later, the two groups were recognized by Indian Affairs as the Fitz-Smith Native Band. In 1988, the two groups split, with the Thebattie becoming the Smith's Landing First Nation. In 2000, SLFN signed a Treaty Entitlement Settlement Agreement with Canada and Alberta.[2] The SLFN has 10 reserves, sequentially numbered from 196 to 196 I, located in northeastern Alberta (Figure 1).

In December 2012, the SLFN had a registered population of 331. No community members are recorded as living on any of the Reserves.[3] Fort Smith, Northwest Territories, is the SLFN main community and where the SLFN offices are located.

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

   The Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs are distant from the traditional territory of the SLFN in northeastern Alberta and the southern part of the Northwest Territories. No specific information was identified that described or documented current use by the SLFN 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 SLFN'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?**

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

[2] Canada and Smith's Landing First Nation (2000). Smith's Landing First Nation Treaty Entitlement Settlement Agreement. Final Draft December 17, 1999. The Dedharesche became Salt River First Nation No. 195.

[3] AANDC (2012). Website http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNRegPopulation.aspx?BAND_NUMBER=477&lang=en.

The Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs are distant from the traditional territory of the SLFN. No specific information was identified that described or documented current use by the SLFN 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 SLFN 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 statement on the exercise of asserted Aboriginal or treaty rights by the SLFN 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 has been identified.

4. **Identify past, current and reasonably anticipated future use of lands and resources by SLFN 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.**

   The Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs are distant from the traditional territory of the SLFN in northeastern Alberta and the southern part of the Northwest Territories. No past or current use of lands and resources by SLFN members within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs has been identified, nor has any information been identified relating to reasonably anticipated future use of lands and resources within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs by SLFN members.

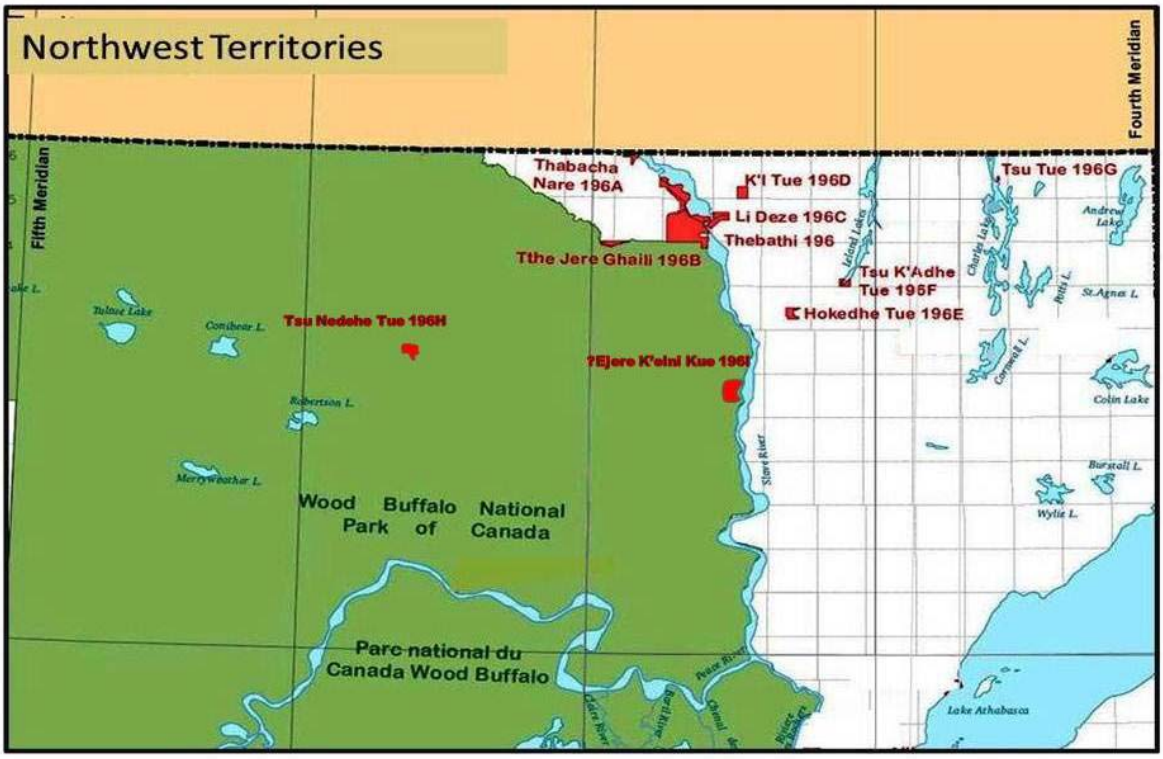
5. **In the TLUS, is there any information relating to the exercise of asserted Aboriginal or treaty rights outside the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs or RAAs?**

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

   The traditional territory of the SLFN is located in northeastern Alberta and the southern part of the Northwest Territories. The ten SLFN Indian Reserves that were established by the Treaty Entitlement Settlement Agreement are all located in northeastern Alberta

close to the Northwest Territories border, reflecting the importance of this region to the SLFN. This region is interpreted to be the major area where SLFN members exercise asserted Aboriginal or treaty rights.

Figure 1: Map Depicting the Location of the Smith's Landing First Nation Indian Reserves in Northeastern Alberta (Portion of Natural Resources Canada (2009). [Map] Canada Lands - Alberta First Nation Lands and National Parks of Canada, revised 10 July 2009. Ottawa). With additions of SLFN IRs in Wood Buffalo National Park.



References

Canada and Smith's Landing First Nation (2000). Smith's Landing First Nation Treaty Entitlement Settlement Agreement. Final Draft December 17, 1999. INAC. Indian Land Registry. Instrument No. 281805, July 10, 2000. Ottawa.

Aboriginal Affairs and Northern Development Canada (2012). Website. http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNRegPopulation.aspx?BAND_NUMBER=477&lang=en.

Natural Resources Canada (2009). [Map] Canada Lands - Alberta First Nation Lands and National Parks of Canada, revised 10 July 2009. Ottawa.

Smith's Landing First Nation (2012). Website http://www.smithlanding.com/index_oldsite.html.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A24 PART 4

ABORIGINAL SUMMARY: SMITH'S LANDING FIRST NATION

FINAL REPORT

Prepared for:

BC Hydro Power and Authority

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Prepared by:

Site C First Nations Engagement Team

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January 2013

Smith's Landing First Nation

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

Smith's Landing 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."

~~While a signatory First Nation's right to exercise these treaty rights to hunt, trap, and fish is granted throughout the "tract surrendered", the right is limited by the Crown's right to take up lands. Infringement of the treaty rights occurs at the point when so much land has been taken up that no meaningful right to exercise that treaty right remains over that group's traditional territory.~~

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, 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.

Smith's Landing First Nation's Concerns with Respect to the Project

The following table presents a high-level description of the concerns identified by Smith's Landing First Nation in consultation activities with BC Hydro between November 1, 2007

and November 30, 2012, including those identified in meetings, phone calls, letters, emails, reports, and any submissions made during the comment periods for the EIS Guidelines.

Need for, Purpose of, the Project
Interest in whether the Project is needed for energy self-sufficiency within British Columbia, or for export.
Alternative Means
Interest in why BC Hydro did not consider alternatives that did not develop all the head between the Project and Peace Canyon, including the potential for lower head facilities at the Project location or further upstream of Wilder Creek. Interest in who determined the constraint to develop the entire head between Peace Canyon and the Project
Alternatives to the Project
Concern that the *Clean Energy Act* limits the consideration or development of feasible alternatives to the Project.
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.
Fish and Fish Habitat
Concern about the potential effects of the Project on fish, fish habitat, and fish species composition, including in the Peace River, Halfway River and Moberly Lake and Alberta.
Wildlife Resources
Concern about the potential impacts of the Project on wildlife, wildlife habitat and biodiversity.
Water – Surface Water Regime
Interest in collecting baseline traditional knowledge. Interest in incorporating traditional knowledge into the environmental assessment.

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 Smith's Landing 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 Smith's Landing 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 Smith's Landing First Nation.

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