

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A05 PART 1

COMMUNITY SUMMARY: DENINU K'UE FIRST NATION

FINAL REPORT

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Deninu K'ue First Nation

Deninu K'ue means "moose island" and is a settlement corporation at Fort Resolution, southwest of the Slave River Delta on the south shore of Great Slave Lake.¹

According to Aboriginal Affairs and Northern Development Canada, as of December 2012, the Deninu K'ue First Nation (DKFN) has a total registered population of 878 people, with 1 member living on DKFN's own reserve and 439 on their own Crown land.² DKFN uses a custom electoral system.³

DKFN members fish, moose hunt, and trap ptarmigan and rabbit year-round.⁴

The DKFN is a member of the Akaitcho Treaty 8 Tribal Corporation, which also represents the Dettah, Ndilo, and Ltsel K'e Dene First Nations.⁵

Historical Background

The DKFN members are culturally Dene.⁶

On July 25, 1900, the ancestors of the DKFN adhered to Treaty 8 at Deninu Kue.⁷

In 1920, a commissioner for Canada met with the Akaitcho Dene people regarding a conflict between Canada and the Akaitcho over the Akaitcho's hunting of migratory birds due to the Migratory Birds Convention that Canada had entered into with the United States and Mexico in 1916. At this meeting, the Commissioner assured the Dene they could continue hunting migratory birds, and that areas could be created where the Dene had the exclusive ability to hunt, trap, fish, and gather. The areas that were created by Order-in-Council were Yellowknives Game Preserve and the Slave River Preserve. In the 1950s, at the request of the non-Dene living in the area, the Minister of Indian Affairs removed the Preserves so that non-Dene could also hunt in the area.⁸

Current Negotiations

The DKFN, Yellowknives Dene First Nation, and Lutsel K'e Dene First Nation (collectively, the Akaitcho Dene First Nations) are currently negotiating with the Government of Canada and the Government of the Northwest Territories to clarify ownership, rights to, and management of lands and resources in the region and the structure, operation, and legal

¹ Akaitcho Treaty 8 Tribal Corporation. 2012. *About Deninu Kue, Northwest Territories, Canada*. Available at: http://www.akaitcho.info/the_akaitcho_treaty_8_tribal_corporation_009.htm. Accessed: December 2012 ("Akaitcho Treaty 8 Tribal Corporation, About Deninu Kue").

² Aboriginal Affairs and Northern Development Canada (AANDC). 2012. *First Nation Detail, Deninu K'Ue First Nation*. Available at: http://pse5-esd5.ainc-inac.gc.ca/FNP/Main/Search/FNMain.aspx?BAND_NUMBER=762&lang=e. Accessed: December 2012 ("AANDC, Deninu K'Ue First Nation").

³ AANDC, Deninu K'Ue First Nation.

⁴ Akaitcho Treaty 8 Tribal Corporation, About Deninu Kue.

⁵ Akaitcho Treaty 8 Tribal Corporation. 2012. *Welcome to our website*. Available at: <http://www.akaitcho.info/index.html>. Accessed: December 2012.

⁶ Akaitcho Treaty 8 Tribal Corporation. 2012. *History of the Weledeh and Akaitcho Region: Who entered Into Treaty*. Available at: http://www.akaitcho.info/the_akaitcho_treaty_8_tribal_corporation_042.htm. Accessed: December 2012 ("Akaitcho Treaty 8 Tribal Corporation, History of the Weledeh and Akaitcho Region").

⁷ Akaitcho Treaty 8 Tribal Corporation, History of the Weledeh and Akaitcho Region.

⁸ Akaitcho Treaty 8 Tribal Corporation, History of the Weledeh and Akaitcho Region.

status of the Akaitcho government. In June 2000, the parties entered into a Framework Agreement to establish the process and scope of negotiations. In August 2006, the parties signed an Interim Land Withdrawal Agreement to protect certain lands during the negotiations.⁹

The Interim Land Withdrawal Map for Crown land can be found here:

http://www.daair.gov.nt.ca/_live/documents/content/ADFN_ILW_Map_crownland.pdf

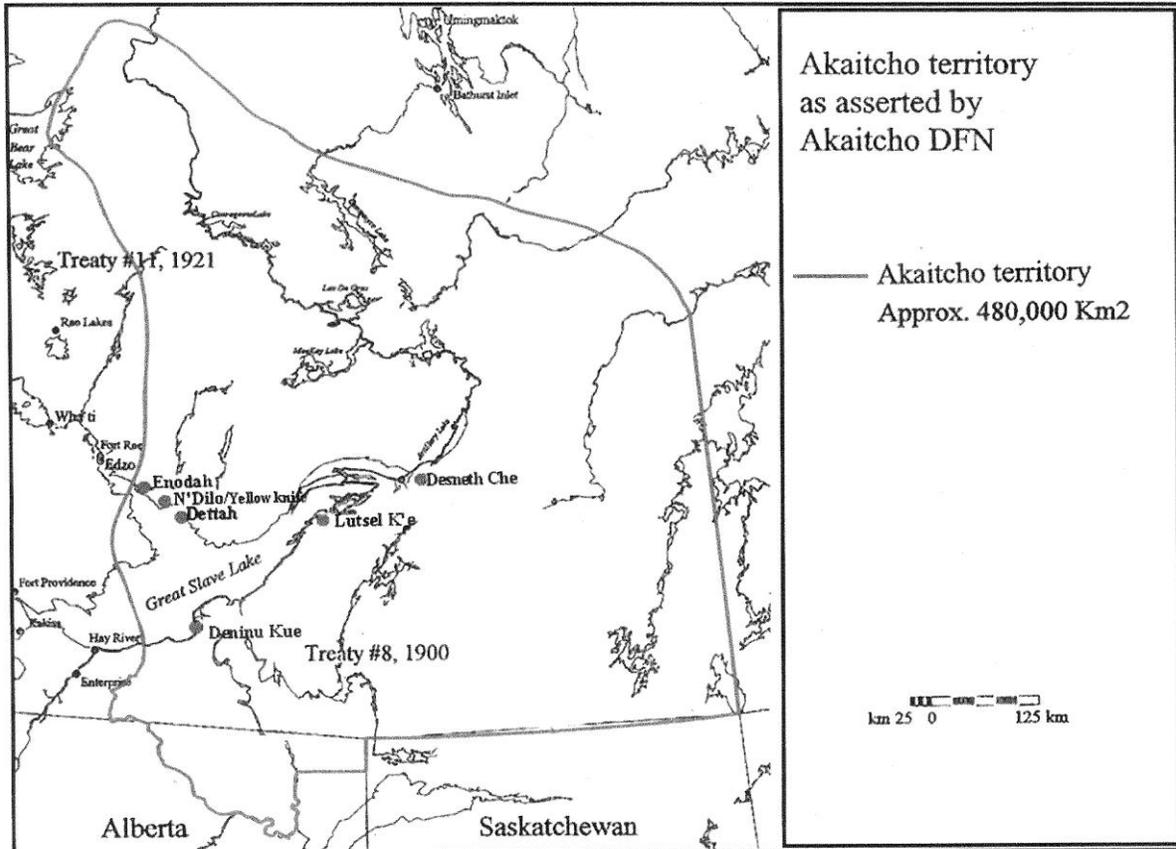
The Interim Land Withdrawal Map for Commissioner's land in Yellowknife can be found here:

http://www.daair.gov.nt.ca/_live/documents/content/ADFN_ILW_Map_commissionersland.pdf

⁹ Akaitcho Treaty 8 Tribal Corporation, History of the Weledeh and Akaitcho Region.

Traditional Territory Map

DKFN. 2012. Akaitcho territory map.



SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A05 PART 2

BC HYDRO CONSULTATION SUMMARY: DENINU K'UE FIRST NATION

FINAL REPORT

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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.

DENINU K'UE FIRST NATION
CONSULTATION SUMMARY

Defined Terms	
“BCEAO”	Environmental Assessment Office, Province of British Columbia
“CEA Agency”	Canadian Environmental Assessment Agency
“Deninu K'ue”	Deninu K'ue First Nation
“EIS”	Environmental Impact Statement
“Potential Downstream Changes Report” or “updated Downstream Report”	Site C Clean Energy Project, <i>Potential Downstream Changes</i> (BC Hydro, May 2012)
“Site C” or “the Project”	The proposed Site C Clean Energy Project
“ <i>Stage 3 Consultation Agreement</i> ”	Site C Clean Energy Project Stage 3 Consultation Agreement between Deninu K'ue and BC Hydro, dated November 16, 2011
“TLUS”	traditional land use study

Key events

2007

- November: BC Hydro made initial contact with Deninu K'ue and expressed its commitment to effective consultation with respect to the Project.

2008

- April: BC Hydro wrote to Deninu K'ue 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 Deninu K'ue 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.

2009

- February: BC Hydro met with representatives of Deninu K'ue for the first time to provide an introductory Project overview.
- May: BC Hydro provided Deninu K'ue with a draft Stage 2 consultation agreement, but the Project moved forward to Stage 3 before a Stage 2 consultation agreement could be concluded.

2010

- April: BC Hydro advised Deninu K'ue 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 tabled a draft Stage 3 consultation agreement for Deninu K'ue's consideration.

2011

- January: BC Hydro met with representatives of Deninu K'ue, including the sub-Chief and several Councillors, to provide a Project overview and review the progress of BC Hydro's work in studying potential downstream effects. BC Hydro provided Deninu K'ue with a copy of the *Stage 2 Review of Potential Downstream Changes from Site C Operations: Preliminary Findings* (October 2009).

- March: BC Hydro provided Deninu K'ue 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 Deninu K'ue that it had submitted the Project Description Report and provided a link to the report.
- June: BC Hydro met with Deninu K'ue's Chief and Council and several community members, to provide a Project update and a presentation on the downstream effects of hydroelectric power generation, in order to generate discussion about issues of concern to Deninu K'ue.
- November: BC Hydro and Deninu K'ue finalized and executed the *Stage 3 Consultation Agreement*, dated November 16, 2011. The agreement established the principles, processes and scope for consultation between Deninu K'ue and BC Hydro in Stage 3, and provided Deninu K'ue with capacity funding to participate in the consultation process.

2012

- February:
 - BC Hydro wrote to Deninu K'ue to provide an update on BC Hydro's proposed approach to Site C procurement and contracting work.
 - BC Hydro wrote to Deninu K'ue to provide an update on the progress towards completing an updated report regarding potential downstream changes, including an overview of some preliminary study results. BC Hydro offered to meet with Deninu K'ue to review the interim results.
 - BC Hydro met via teleconference with Deninu K'ue's Chief and Council and representatives of the CEA Agency and the BCEAO. BC Hydro provided a Project update and discussed the status of BC Hydro's work on potential downstream changes.
- May:
 - BC Hydro provided Deninu K'ue 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 Deninu K'ue 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 Deninu K'ue.
- August: BC Hydro met with representatives of Deninu K'ue to provide a Project update and to present the findings of the Potential Downstream Changes Report. BC Hydro's Senior Engineer and Hydrology Expert reviewed the report's findings, summarized as follows:
 - Surface water regime: BC Hydro reported that it was likely the Project would result in greater fluctuation of water levels near the Site C tailrace with effects diminishing further downstream and little notable change at the Town of Peace River. BC Hydro indicated that it expected no seasonal change in the timing of water releases.
 - Ice regime: BC Hydro reviewed the expected changes in the ice regime as a result of the Project, explaining that (a) there would be no changes in ice thickness, (b) there would be no change in the timing of ice break-up, and (c) there would be a slight delay in ice front progressions, with an average delay of three days at the Town of Peace River, and greater upstream.
 - Geomorphology and sediment transport: BC Hydro indicated that expected changes in flows as a result of the Project were not expected to influence the bedload transport capacity downstream or have any influence on channel erosion or deposition.

In response to a question about the spatial boundaries of the downstream studies, BC Hydro advised that the study boundaries were determined by the farthest extent of any identifiable changes to the river, and that many of the boundaries were set beyond the last point of any identifiable change. BC Hydro advised that Water Survey of Canada gauges were used in the study, with the closest to Fort Resolution being at Peace Point.

- September:
 - BC Hydro participated in a conference call with Deninu K'ue. BC Hydro expressed interest in receiving traditional knowledge information from Deninu K'ue, however advised that a full scope TLUS would not be supported.

- BC Hydro wrote to Deninu K'ue 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 Deninu K'ue 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 Deninu K'ue's current use of lands and resources for hunting fishing and trapping, and other purposes, and information regarding how the Project would affect Deninu K'ue'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.
- BC Hydro sent a letter to Deninu K'ue which advised that BC Hydro had updated the Project footprint map for Site C, and provided a link to the updated map and associated shape file data. The letter attached a memorandum outlining the specifics of the new and amended information, which identified, among other things, a reduction in the area of the proposed Site C dam site from 3907 hectares (April 2012) to 2025 hectares (October 2012).
- November: Deninu K'ue wrote to BC Hydro in response to BC Hydro's letters requesting additional information to support the preparation of the EIS, and enclosed a map of Deninu K'ue's traditional territory. The letter indicated that Deninu K'ue was willing to work with BC Hydro to provide the requested information, but remained concerned that the information would not be considered by BC Hydro based on the current spatial boundaries identified in the EIS Guidelines. The letter enclosed a study plan and budget intended to enable Deninu K'ue to respond to the information requests in BC Hydro's letter. The letter emphasized the importance of considering traditional use information in the EIS, and explained its perspective on how Deninu K'ue's experience of the impacts of the W.A.C. Bennett Dam could be used to inform the environmental assessment for the Site C Project.

Chronology of Events

2007

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

2008

On April 10, 2008, BC Hydro sent a letter to Deninu K'ue in follow up to BC Hydro's letter of November 21, 2007. The letter advised that BC Hydro had developed an engagement strategy for the Project and formed a team to consult with First Nations. The letter advised that BC Hydro planned to begin engagement with Treaty 8 First Nations in Alberta and the Northwest Territories in May and June, and would contact Deninu K'ue to set up an introductory meeting. The letter attached the Stage 1 Summary Report.

On September 26, 2008, BC Hydro sent a letter to Deninu K'ue 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 Deninu K'ue to develop a plan for future consultation. The letter enclosed a further copy of the Stage 1 Summary Report.

2009

On February 17, 2009, BC Hydro met with representatives of Deninu K'ue including two Councillors, staff members, Elders, and other community members. BC Hydro provided an introductory overview of the Project and responded to questions and concerns raised by meeting participants. Deninu K'ue advised that it had observed reduced water levels and seasonal fluctuations in the Slave River and Great Slave Lake which it attributed to impoundment of water at the Williston Reservoir, and expressed concern that Site C might add to the problem.

On March 20, 2009, BC Hydro sent a letter to Deninu K'ue enclosing a capacity funding cheque for costs associated with the meeting of February 17, 2009.

On May 20, 2009, BC Hydro sent an email to Deninu K'ue attaching a draft Stage 2 consultation agreement for Deninu K'ue's review and consideration. However, owing to delays associated with Deninu K'ue's band election, the Project had moved to Stage 3 before a Stage 2 consultation agreement could be finalized.

2010

On April 19, 2010, BC Hydro sent an email to Deninu K'ue advising that the Government 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 September 23, 2010, BC Hydro sent a letter to Deninu K'ue and enclosed a draft Stage 3 consultation agreement for Deninu K'ue's review and consideration. BC Hydro expressed interest in scheduling a meeting to discuss the draft and provide an update on the Project.

2011

On January 25, 2011, BC Hydro met with representatives of Deninu K'ue (Sub-Chief, three Councillors, staff) and twelve members of the Elders Council. BC Hydro provided a project overview and reviewed the anticipated timelines for the regulatory process. BC Hydro highlighted the Stage 2 Downstream Report as potentially being of particular interest to Deninu K'ue, and agreed to follow up and provide a copy. BC Hydro advised that its work on potential downstream changes was being updated, and that a revised report would likely be ready for review by First Nations at the end of 2011. Deninu K'ue expressed concern about the potential impact of Site C on water levels and advised that the water levels in the Slave River and the Great Slave Lake had dropped significantly in the past summer. A member of the Elders Council described the impact of low water levels on birds, traditional uses and boat transportation. BC Hydro explained that the downstream effects of the Project would be analyzed in the updated Downstream Report, including potential changes in water levels, water flow and icing. Deninu K'ue advised that it was heading into an election in the coming weeks and would provide comments on the draft Stage 3 consultation agreement when the new Chief and Council were in place. BC Hydro reiterated its interest in concluding a consultation agreement in the near future.

On January 31, 2011, BC Hydro sent an email to Deninu K'ue further to the meeting of January 25, 2011, and attached a copy of the *Stage 2 Review of Potential Downstream Changes from Site C Operations: Preliminary Findings* (October 2009).

On March 15, 2011, BC Hydro sent a letter to Deninu K'ue 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 Deninu K'ue 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 March 24, 2011, BC Hydro sent a letter to Deninu K'ue enclosing a capacity funding cheque for costs associated with the meeting held on January 25, 2011.

On May 10, 2011, Deninu K'ue sent a letter to BC Hydro and provided a list of suggested revisions to the draft Stage 3 consultation agreement, in follow up to a commitment made at the meeting of January 25, 2011.

On May 18, 2011, BC Hydro sent a letter to Deninu K'ue 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 28, 2011, BC Hydro met with Deninu K'ue's Chief and Council and eight community members. BC Hydro provided an overview of the Project and gave a presentation titled "Downstream Effects of Hydroelectric Power Generation", taking questions throughout. BC Hydro explained that the updated Downstream Report would not be finalized until the fall of 2011, and that the presentation was developed as an interim step as a means to generate discussion about issues of interest to downstream First Nations. BC Hydro indicated that it had received Deninu K'ue's comments on the draft Stage 3 consultation agreement, and the parties agreed to schedule a teleconference to review the draft agreement.

On July 14, 2011, BC Hydro met via teleconference with representatives of Deninu K'ue (Environment Manager, IMA Coordinator) to review the draft Stage 3 consultation agreement. BC Hydro agreed to provide a revised draft based on the discussion.

On August 3, 2011, BC Hydro sent a letter to Deninu K'ue enclosing a cheque to cover the costs associated with the meeting held on June 28, 2011.

On August 5, 2011, BC Hydro sent a letter to Deninu K'ue in response to Deninu K'ue's letter dated May 10, 2011 and the teleconference on July 14, 2011. The letter advised that BC Hydro had reviewed Deninu K'ue's proposed revisions to the draft Stage 3 consultation agreement, and attached a revised draft with annotated comments addressing each of the proposed revisions. The letter advised that BC Hydro was prepared to have further discussions with Deninu K'ue to clarify outstanding issues and work toward finalizing the agreement.

On September 30, 2011, BC Hydro sent an email to Deninu K'ue 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 November 18, 2011, Deninu K'ue sent a letter to BC Hydro enclosing a signed copy of the *Stage 3 Consultation Agreement* and the associated Band Council Resolution. On December 9, 2011, BC Hydro sent an email to Deninu K'ue attaching a final copy of the *Stage 3 Consultation Agreement*, signed by BC Hydro.

The *Stage 3 Consultation Agreement*, dated November 16, 2011 establishes the principles, process and scope for consultation between BC Hydro and Deninu K'ue for Stage 3, and provides capacity funding to enable Deninu K'ue to participate in the consultation process, to engage with BC Hydro to identify potential impacts of the Project on Deninu K'ue and its section 35(1) rights, and to identify strategies to avoid, mitigate, manage and/or accommodate those potential impacts. The agreement includes provisions addressing confidentiality, budgeting and work planning, funding and payment schedules, and communication between the parties. The agreement includes a draft work plan for a defined consultation project, under which Deninu K'ue would provide BC Hydro with feedback on the Potential Downstream Changes Report. The agreement will remain in effect until the completion of Stage 3, subject to termination by either party upon 90 days written notice.

On December 14, 2011, BC Hydro sent a letter to Deninu K'ue enclosing a capacity funding cheque issued pursuant to the *Stage 3 Consultation Agreement*.

2012

On January, 10, 2012, BC Hydro sent a letter to Deninu K'ue enclosing a capacity funding cheque issued pursuant to the *Stage 3 Consultation Agreement*.

On February 6 and 15, 2012, BC Hydro sent an email to Deninu K'ue attaching the following two documents intended to provide an update on BC Hydro's proposed approach to Site C procurement and contracting work:

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

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

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

On February 21, 2012, BC Hydro met via teleconference with representatives of Deninu K'ue (Chief, five Councillors, IMA Coordinator, consultant), and representatives of the CEA Agency and the BCEAO. BC Hydro provided an update on the Project and discussed the status of BC Hydro's work on potential downstream changes. BC Hydro advised that it had circulated a study update to Deninu K'ue on February 8, 2011, and that the Downstream Report would likely be completed in April or May. BC Hydro suggested that Deninu K'ue review the study update and contact BC Hydro if it had any questions. Representatives of the CEA Agency and the BCEAO reviewed their respective roles in the environmental assessment process. BC Hydro committed to providing Deninu K'ue with maps of the Project area.

On March 12, 2012, BC Hydro sent a letter to Deninu K'ue attaching maps of the Project area and Project activity zones, in response to Deninu K'ue request in the meeting of February 21, 2012.

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

On May 25, 2012, BC Hydro sent a letter to Deninu K'ue 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 8, 2012, Deninu K'ue sent an email to BC Hydro with attached Quarterly Financial Reports prepared pursuant to the *Stage 3 Consultation Agreement*, for the following periods: November 16, 2011 to December 31, 2011; January 1, 2012 to March 31, 2012; and April 1, 2012 to June 30, 2012. Deninu K'ue sent revised copies on August 20, 2012 and August 28, 2012.

On August 27, 2012, BC Hydro sent a letter to Deninu K'ue 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 Deninu K'ue (Chief, two Councillors, two band members) to provide a Project update and present the findings of the Potential Downstream Changes Report. BC Hydro's Senior Engineer and Hydrology Expert reviewed the report's findings with respect to expected changes in the surface water regime, the ice regime, and geomorphology and sediment transport, summarized as follows:

- Surface water regime: BC Hydro reported that it was likely the Project would result in greater fluctuation of water levels near the Site C tailrace with effects diminishing further downstream and little notable change at the Town of Peace River. BC Hydro indicated that it expected no seasonal change in the timing of water releases.
- Ice regime: BC Hydro reviewed the expected changes in the ice regime as a result of the Project, explaining that (a) there would be no changes in ice thickness, (b) there would be no change in the timing of ice break-up, and (c) there would be a slight delay in ice front progressions, with an average delay of three days at the Town of Peace River, and greater upstream.
- Geomorphology and sediment transport: BC Hydro explained that geomorphology referred to the river shape, while the sediment regime referred to the quantity, timing,

and mode of transport of particulate matter by river flows. BC Hydro indicated that expected changes in flows as a result of the Project were not expected to influence the bedload transport capacity downstream or have any influence on channel erosion or deposition.

During the downstream presentation, BC Hydro answered questions regarding the potential contribution of climate change to changes in water flow and the spatial boundaries used for BC Hydro's studies. A participant asked whether any studies were conducted in the local area near Fort Resolution, and why BC Hydro had not extended the study boundaries to areas further downstream. BC Hydro advised that the study boundaries were determined by the farthest extent of any identifiable changes to the river, and that many of the boundaries were set beyond the last point of any identifiable change. BC Hydro advised that Water Survey of Canada gauges were used in the study, with the closest to Fort Resolution being at Peace Point. Deninu K'ue identified a number of changes that members had observed in their area, including low water levels in Great Slave Lake, changes to the Great Slave Delta (filling), and difficulty navigating areas in the Slave River. Deninu K'ue expressed the view that the W.A.C. Bennett Dam had contributed to some of the changes in the area, and BC Hydro agreed to provide Deninu K'ue with the contact information of its Aboriginal Relations and Negotiations department which dealt with historical grievances. The parties agreed to conduct further discussions on the collection of traditional knowledge data to be incorporated into the EIS.

On September 17, 2012, BC Hydro sent an email to Deninu K'ue in follow up to the meeting of August 28, 2012. BC Hydro clarified that it was prepared to consider a proposal for a traditional knowledge study, but requested more details about the scope, budget and timeline for the study, and how the study would inform the environmental assessment for the Project. BC Hydro suggested that there might be sufficient funding in the current consultation agreement for the study to be carried out, rather than entering into a new agreement.

On September 21, 2012, BC Hydro sent a letter to Deninu K'ue 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 Deninu K'ue, 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 Deninu K'ue 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 September 25, 2012, BC Hydro had a telephone conversation with Deninu K'ue's consultant regarding BC Hydro's letter of September 21, 2012. The consultant indicated the letter had raised a number of issues for Deninu K'ue, including historical grievances related to the W.A.C. Bennett Dam and the need for funding to complete a TLUS, and advised that she intended to send a proposal to BC Hydro respecting the issues. BC Hydro explained that the Site C team was not responsible for dealing with historical grievances, and that BC Hydro was not prepared to support a full TLUS for Deninu K'ue given its assessment that downstream changes would be minimal in the vicinity of Deninu K'ue. The consultant explained that she had been carrying out interviews with trappers with trap lines on the Slave River. BC Hydro expressed interested in receiving traditional use information from the trapper survey, and proposed an amount of funding to support the provision of that information to BC Hydro.

On October 5, 2012, BC Hydro sent an email notification of invitation to Deninu K'ue for the upcoming Site C Business Information Sessions, to be held in November 2012. BC Hydro attached information about the session time and location for various destinations around British Columbia, and advised that the notice would be posted on its secured file transfer website. A detailed invitation and registration link was provided by BC Hydro on October 16, 2012.

On October 9, 2012, BC Hydro sent a letter to Deninu K'ue and provided a new link to the secured file transfer website for Aboriginal groups.

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

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

On November 1, 2012, Deninu K'ue's legal counsel sent a letter to BC Hydro, in response to BC Hydro's letters of September 21, 2012 and October 25, 2012. The letter enclosed a map of Deninu K'ue's traditional territory, and explained that the northern banks of the Peace River and the entirety of the Slave River Watershed were of central concern to Deninu K'ue, as those areas had been used for hunting, trapping, fishing, gathering and cultural practices since time immemorial. With respect to the Potential Downstream Changes Report, the letter expressed concern about a number of assumptions and gaps in the report, and advised that Deninu K'ue was currently seeking proposals from qualified experts to undertake a detailed review of the report, as contemplated under the *Stage 3 Consultation Agreement*. The letter described a lack of consensus with respect to the scope and reach of downstream changes associated with the Project, and suggested that the extent of downstream changes would need to be assessed, rather than pre-determined in advance of an assessment by a single report commissioned by BC Hydro. The letter emphasized the importance of considering information associated with Deninu K'ue's traditional use and exercise of rights in the Northern Peace and Slave River watersheds in the EIS. The letter asserted that baseline information, including traditional knowledge, would be essential to a proper cumulative effects assessment of the Project, and that the baseline used for the assessment should include both a pre- and post-W.A.C. Bennett Dam case. The letter stated that the membership was experiencing impacts from the W.A.C. Bennett Dam on their traditional use and exercise of rights, and identified a number of examples. The letter suggested that the identified impacts, as experienced by Deninu K'ue water and land users, showed how changes to the Peace River flow regime caused downstream effects in the Slave River system. The letter indicated that Deninu K'ue was willing to work with BC Hydro to provide the information identified in BC Hydro's letter of September 21, 2012, but remained concerned that the information would not be considered by BC Hydro based on the current spatial boundaries identified in the EIS Guidelines. The letter enclosed a study plan and budget intended to enable Deninu K'ue to respond to the information requests in BC Hydro's letter. The study plan proposed that Deninu K'ue would prepare an Ethno-Historical Impact Report, a Treaty 8 Intent Report, and a Traditional Knowledge and Use Report, to be compiled into one final report and submitted to BC Hydro by March 31, 2013.

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

Deninu K'ue 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 A05 PART 3

ABORIGINAL LAND AND RESOURCE USE

SUMMARY:

DENINU K'UE FIRST NATION

FINAL REPORT

Prepared for:

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January 2013

Deninu K'ue First Nation (DKFN)

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

Treaty 8 was signed by ancestors of the Deninu K'ue on July 25, 1900 at Fort Resolution (Deninu Kue). The territory of the DKFN is largely south of Great Slave Lake. In December 2012, the registered population of the DKFN was 878.² The major community is at Deninu K'ue (Fort Resolution), NWT.

The DKFN is a member of the Akaitcho First Nations (AFN). The asserted territory of the AFN encompasses 480,000 square kilometres in southern Northwest Territories and a small area in northeastern Alberta (Figure 1).³ Four members of the AFN, including DKFN, are negotiating a Treaty 8 Northwest Territories Settlement Agreement with Canada and the Government of the Northwest Territories.⁴

1. What is the DKFN'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 DKFN in the southern part of the Northwest Territories. No specific information was identified that described or documented current use by the DKFN 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 and RAAs for hunting, fishing or trapping activities.

¹ The sources consulted for this study are set out in the References. The DKFN are currently undertaking a TLU study and an Ethnohistory study for a project before the Mackenzie Valley Environmental Impact Review Board. (Deninu K'ue First Nation (2012). Presentation for the Public Hearings regarding the DeBeers Canada Gahcho Kue Diamond Mine Proposal. Mackenzie Valley Environmental Impact Review Board, December 3-7, 2012).

² AANDC (2012). Website http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNMain.aspx?BAND_NUMBER=762&lang=eng.

³ Akaitcho Territory Dene First Nations, Canada and Government of NWT (2001). Interim Measures Agreement, 26 June 2001.

⁴ Akaitcho Territory Dene First Nations, Canada and Government of NWT (2000). Akaitcho Territory Dene First Nations Framework Agreement. 25 July 2000.

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

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

3. What is your understanding of the exercise of asserted Aboriginal rights or treaty rights by the DKFN 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 DKFN assert that their treaty rights include the right to hunt, fish, trap and gather to sustain their livelihood in their traditional territory.⁵

No information was identified relating to the exercise of asserted Aboriginal rights or treaty rights by the DKFN within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and RAAs.

4. Identify past, current and reasonably anticipated future use of lands and resources by DKFN 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 DKFN in southern Northwest Territories. No past or current use of lands and resources by DKFN members within the Current Use of Lands and Resources (Wildlife Resources) and Current Use of Lands and Resources (Fish and Fish Habitat) LAAs and 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 and RAAs by DKFN members.

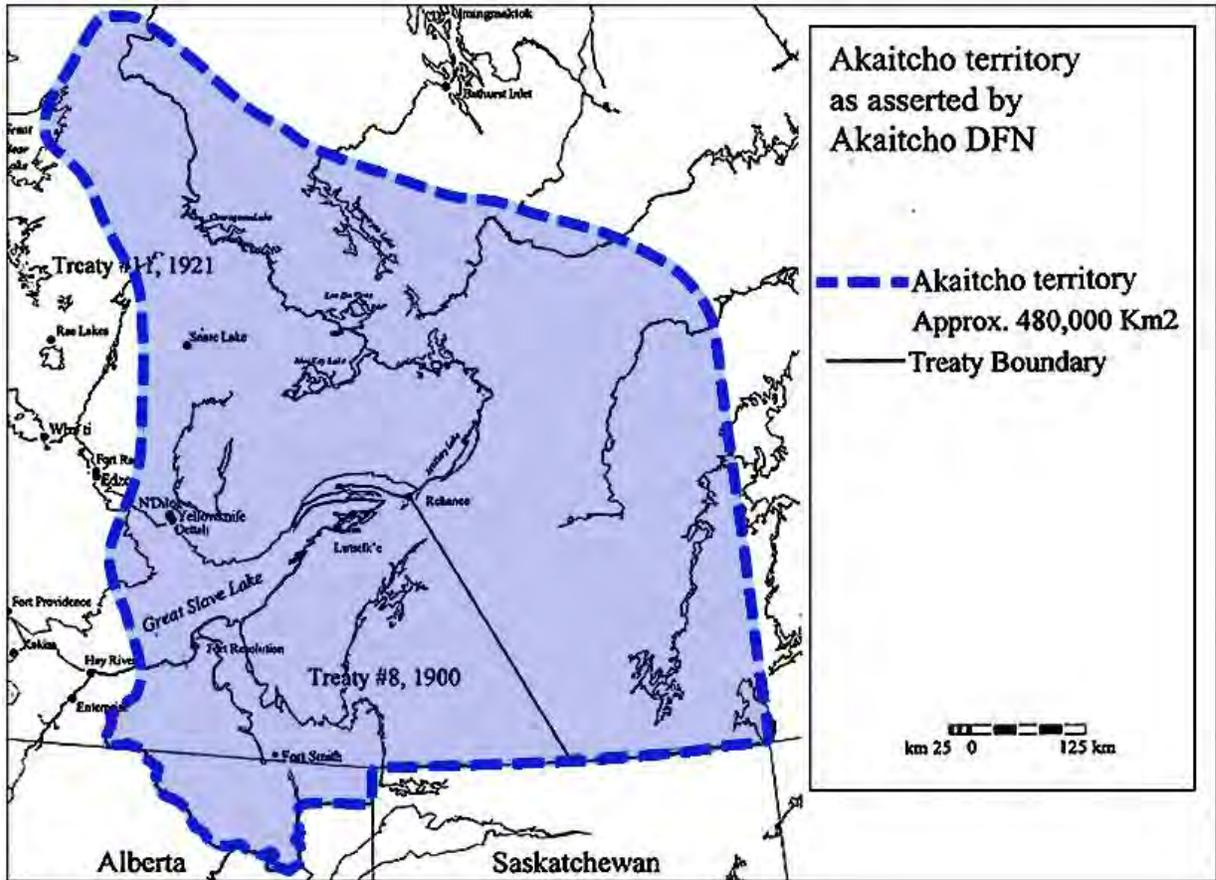
⁵ Deninu K'ue First Nation (nd). Presentation for Scoping Session for the Proposed Taltson River Expansion. Mackenzie Valley Review Environmental Board.

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 and RAAs?

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

The traditional territory of the DKFN is located within the area of Treaty 8 in the southern part of the Northwest Territories. DKFN assert that their territory also extends to the north side of Great Slave Lake. DKFN territory is interpreted to be the major area where DKFN members exercise their asserted Aboriginal or treaty rights.

Figure 1: Map of the Asserted Territory of the Akaitcho Territory First Nations, including the Deninu Kue First Nation (Akaitcho DFN, Canada and Government of NWT (2001). Appendix E. Akaitcho Boundary and Interim Measures Agreement, 28 June 2001).



References

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http://www.reviewboard.ca/upload/project_document/EIR0607-001_DKFN_Presentation.PDF.

SITE C CLEAN ENERGY PROJECT

VOLUME 5 APPENDIX A05 PART 4

ABORIGINAL SUMMARY: DENINU K'UE FIRST NATION

FINAL REPORT

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January 2013

Deninu K'ue First Nation

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

Deninu K'ue First Nation's Treaty Rights

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

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

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

Deninu K'ue First Nation's Concerns with Respect to the Project

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

Alternatives to the Project

Interest in BC Hydro's consideration of alternatives to the Project including wind energy, solar energy, nuclear energy, geothermal energy, gas-fired generation, fiber from the
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mountain pine beetle kill and upgrading existing generation facilities closer to the Lower Mainland.
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.
Water - Methylmercury
Concern about mercury accumulation and contamination in fish.
Wildlife Resources
Concern about the potential impacts of the Project on wildlife, wildlife habitat and biodiversity.
Concern about the potential effects of the Project on migratory birds and migratory bird habitat, including warblers, marsh birds, ducks, woodpeckers, red and blue listed neo-tropical migratory birds, Slave River area geese and water fowl.
Concern about the potential effects of the Project on furbearers and habitat for furbearers, including fishers, wolverine, rabbits, muskrats and beaver.
Current Use of Lands and Resources for Traditional Purposes
Concerns about the potential effects of the Project on fishing, including access, water flow, water levels and habitat.
Interest in collecting baseline traditional knowledge.
Interest in incorporating traditional knowledge into the environmental assessment.
Human Health
Concerns related to the contamination of fish and wildlife resulting in a lack of faith in country foods.
Perception of health risk related to methylmercury in country foods.
Asserted or Established Aboriginal Rights
Concern that BC Hydro didn't agree to fund a Traditional Land Use Study or Traditional Ecological Knowledge Study for some Aboriginal groups located downstream of the Project.
Treaty Rights (Hunting, Fishing and Trapping)
Concern about the potential impacts of the Project on Treaty 8 rights.

Aboriginal Interests – 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 Deninu K'ue 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 Deninu K'ue 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 Deninu K'ue First Nation.

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