
ST'ÁT'IMC (PC) SETTLEMENT AGREEMENT
AMONGST
ST'ÁT'IMC (PC)
ST'ÁT'IMC AUTHORITY
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
AND
HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA

May 10, 2011

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ST'ÁT'IMC (PC) SETTLEMENT AGREEMENT

THIS AGREEMENT is made as of the 10th day of May, 2011,

AMONG:

ST'ÁT'IMC (PC)

AND:

ST'ÁT'IMC AUTHORITY

AND:

**BRITISH COLUMBIA HYDRO AND POWER
AUTHORITY**, a crown corporation continued under the *Hydro
and Power Authority Act*, having its registered and records office
at 333 Dunsmuir Street, Vancouver, British Columbia

AND:

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA**

BACKGROUND:

- A. The St'at'imc are indigenous people who assert aboriginal title and rights to the Territory and on May 10, 1911 the Declaration of Lillooet Tribe was signed by 17 St'at'imc Chiefs asserting that the St'at'imc are the rightful owners of the Territory and everything pertaining thereto;
- B. The St'at'imc Chiefs Council is currently the St'at'imc authority that represents the Communities on certain aboriginal title and right matters, including certain matters related to the Facilities;
- C. St'at'imc, the Province and BC Hydro have agreed to utilize two Settlement Agreements (this Agreement and the Lil'wat Settlement Agreement), together with the other Settlement Documents, to settle, as set out therein, all past, present and future impacts, grievances and claims of the St'at'imc relating to the Facilities and their continued operations; and
- D. St'at'imc, BC Hydro and the Province intend through the Settlement Documents to:
 - (1) create certainty for all such parties regarding BC Hydro's continued operation of the Facilities in the Territory by addressing past grievances, taking steps to mitigate impacts and creating a relationship founded on mutual respect, recognition and understanding; and

- (2) assist in developing collaborative working relationships relating to the Facilities and their continued operations, including encouraging business and economic opportunities between BC Hydro and St'át'imc.

NOW THEREFORE IN CONSIDERATION for \$1.00 now paid by each of the Province and BC Hydro to each of the Participating Communities and the St'át'imc Authority and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties), the Parties agree with each other as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** In this Agreement, including the recitals/preamble, the following words, phrases and expressions have the following meanings. In addition, the words, phrases and expressions set out in Schedule 1 shall have the meanings given to them therein, unless such words, phrases or expressions are otherwise defined in this Section 1.1, in which case the definitions in this Section shall apply and take precedence.

- (a) **"Administration Fund Payment"** means the payment to be made pursuant to Section 2.8;
- (b) **"Administrative Trustee"** means the person appointed from time to time as Administrative Trustee of the Trust;
- (c) **"Agreed Trust Terms"** means the terms and conditions of the form of Trust Indenture initialled by the Negotiators of the Parties pursuant to the Ratification Agreement or such other form as may be agreed to by the Parties in writing;
- (d) **"AMP"** means the archaeological management plan developed and implemented by St'át'imc using a portion of the Heritage and Culture Payments in accordance with the terms of this Agreement, a copy of which is attached as Schedule 4;
- (e) **"Community Annual Payment"** has the meaning given to that term in Section 2.3;
- (f) **"Education and Training Payment"** means the payment to be made pursuant to Section 2.7;
- (g) **"Environment and Natural Resources Payment"** means the payment to be made pursuant to Section 2.5;
- (h) **"Heritage and Culture Payment"** means the payment to be made pursuant to Section 2.6;
- (i) **"Lower Bridge River Flow AMDM Framework"** means a structured decision making framework developed by St'át'imc and BC Hydro for guiding decisions associated with the adaptive management of the flow releases (including flow testing and long-term flow recommendations to the Comptroller) into the lower

Bridge River downstream of BC Hydro's Terzaghi Dam, as more fully set out in Schedule 5;

- (j) **"Minimum Protected Amount"** means the sum of \$15,000,000 adjusted annually for the percentage change in CPI from the date of the settlement of the Trust;
- (k) **"Mitigation Plans"** has the meaning given to that term in Section 5.3(a)(ii);
- (l) **"Nation Annual Payment"** means the payment to be made to the Trust pursuant to Section 2.4;
- (m) **"New Transmission Line Nation Payment"** means the payment to be made by BC Hydro pursuant to Section 2.9;
- (n) **"New Transmission Line Communities Payments"** means the payments to be made by BC Hydro to Tsal'álh, Xwisten and N'Quatqua in respect of the New Transmission Line pursuant to the Community Settlement Agreement with each of such Communities;
- (o) **"One-Time Nation Payment"** means the payment to be made into the Trust pursuant to Section 2.2;
- (p) **"Out-Migration Period"** means sockeye smolt out-migration periods from Seton Lake which are typically in or about April 20 – May 20 in each year;
- (q) **"Program Payments"** means, collectively, the Environment and Natural Resource Payments, the Heritage and Culture Payments, the Administration Fund Payments and the Education and Training Payments;
- (r) **"Remaining Trust Property"** has the meaning given to that term in Section 3.6;
- (s) **"Research Program"** has the meaning given to that term in Section 5.4(a);
- (t) **"Seton Mortality Rate"** means the rate of mortality for Seton sockeye smolt associated with the outmigration of the Seton sockeye smolt through the Seton Generating Station and the spill gates at Seton dam during the Out-Migration Period;
- (u) **"Seton Mortality Target"** means the target objective Seton Mortality Rate, being the maximum of 5% mortality annually or such other target agreed by BC Hydro and the St'át'imc pursuant to Section 5.2(a);
- (v) **"SLEMP"** means the erosion mitigation program developed by the St'át'imc and BC Hydro and approved by the Comptroller as part of the Bridge River WUP which is intended to mitigate erosion, other than erosion to heritage or culture sites, occurring around Seton Lake and at Sekw'elw'as's Reserve adjacent to Seton River resulting from the water level fluctuations of Seton Lake due to the

operation of those Bridge-Seton Generation Facilities located on Seton Lake, Cayoose Creek and Seton River;

- (w) **"SON Operation Modifications"** has the meaning given to that term in Section 5.2(a)(i);
- (x) **"St'át'imc Conditions"** means the conditions set out in Sections 5.2, 5.3, 5.4 and 5.5 of this Agreement;
- (y) **"Steering Committee Representatives"** means the representatives of BC Hydro on the Steering Committee and the St'át'imc (PC) representatives on the Steering Committee;
- (z) **"Successor Trust"** has the meaning given to that term in Section 3.6;
- (aa) **"Trust"** means The St'át'imc (PC) 2011 Trust to be settled by the Participating Communities as contemplated by Section 3.1 and any Successor Trust;
- (bb) **"Trust Audit Report"** has the meaning given to that term in Section 3.5(a);
- (cc) **"Trust Final Distribution Date"** has the same meaning as the "Final Distribution Date" as defined in the Trust; and
- (dd) **"Trustees"** means the trustees appointed, from time to time, as trustees of the Trust.

1.2 Application to St'át'imc.

- (a) Each reference to "St'át'imc (PC)" in this Agreement includes a reference to all of the Participating Communities and each of the representations, covenants, indemnities, obligations, acknowledgements and other agreements whatsoever of St'át'imc (PC) under this Agreement are applicable to all the Participating Communities jointly (but not severally). The Participating Communities shall be jointly liable to BC Hydro and the Province with respect to such covenants, indemnities, obligations, acknowledgements and other agreements.
- (b) Except as otherwise specifically provided in this Agreement, each of the Participating Communities hereby expressly authorizes the St'át'imc Authority to act on its behalf in connection with this Agreement and the transactions contemplated hereby. All decisions and actions (including the execution of any documents) made and taken by the St'át'imc Authority in connection with this Agreement and the transactions contemplated hereby shall be binding upon all of the Participating Communities jointly (but not severally). BC Hydro and the Province shall be entitled to rely conclusively on the decisions made by and actions of the St'át'imc Authority in connection with this Agreement and the transactions contemplated hereby and shall have no liability to one or more of the Participating Communities in respect thereof to the extent they have relied upon such authority.

- (c) Each of the acknowledgements, covenants, representations and obligations of BC Hydro and the Province under this Agreement in favour of St'át'imc (PC) and any other rights or benefits of St'át'imc (PC) under this Agreement may only be enforced or exercised by St'át'imc (PC), as represented by the St'át'imc Authority, and, without limiting the foregoing, except as specifically provided in this Agreement, none of the Participating Communities shall separately be entitled to take any action to enforce or exercise such acknowledgements, covenants, representations, obligations, rights or benefits.
- 1.3 **Application to BC Hydro.** To the extent that BC Hydro delegates or subcontracts the performance of any of its covenants or obligations under this Agreement to its subsidiaries, contractors, subcontractors, agents or other third parties, BC Hydro shall be responsible for ensuring that such third parties satisfy such covenants and obligations.
- 1.4 **No Wrongdoing.** It is expressly understood and agreed by the Parties that the terms and conditions contained in this Agreement do not, and will not, constitute an admission of wrongdoing or liability on the part of BC Hydro or the Province.
- 1.5 **No Restriction.** Subject to the terms and conditions of this Agreement, St'át'imc will not be precluded from asserting or claiming, in a court of law or otherwise, aboriginal title, aboriginal rights or future treaty rights to the water, land and other resources of the Territory.
- 1.6 **Non-Derogation.** Nothing in this Agreement (including any acknowledgements or covenants) shall be construed by anyone so as to:
- (a) extinguish or, except as expressly provided in this Agreement, limit any aboriginal title, rights or responsibilities or future treaty rights which are held or may be held by any one or more Participating Communities or St'át'imc, regardless of whether such title, rights or responsibilities are recognized, established or defined before the completion of this Agreement;
 - (b) constitute or be evidence of the nature and extent of aboriginal title, rights or responsibilities, ownership or jurisdiction or future treaty rights which are held or may be held by any one or more Participating Communities or St'át'imc including their laws, customs or traditions;
 - (c) constitute or be evidence of the boundary of the geographical area over which any one or more Participating Communities or St'át'imc claim aboriginal title, rights and responsibilities or the nature, scope or extent thereof;
 - (d) constitute or be evidence of an admission by any one or more Participating Communities or St'át'imc of the nature and extent of title, rights, ownership or jurisdiction which are held or may be held by the Province within the Territory;
 - (e) impact, extinguish, infringe, limit, define or in any way affect aboriginal title, rights or responsibilities or treaty rights which are held or may be held by any aboriginal people(s) other than the Participating Communities or St'át'imc,

regardless of whether such title, rights or responsibilities are recognized, established, or defined before the completion of this Agreement; or

(f) constitute admissions of fact of any Party.

1.7 **Limitation of Agreement.** It is expressly understood and agreed by the Parties that this Agreement is not a treaty or land claims agreement within the meaning of section 25 and 35 of the *Constitution Act*, 1982 and does not define, recognize or affirm any asserted or existing aboriginal title and rights including treaty rights.

1.8 **Interpretation.** Unless the context otherwise expressly requires, in this Agreement:

(a) the singular includes the plural and conversely;

(b) a gender includes all genders;

(c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(d) a reference to a person (including a Party) includes an individual, company, other body corporate, association, partnership, firm, joint venture or trust;

(e) a reference to a body or official, other than a Party whether statutory or not:

(i) which ceases to exist; or

(ii) whose powers or functions are transferred to another body or official;

is a reference to the body or official which replaces it or which substantially succeeds to its powers or functions;

(f) a reference to a section, schedule or annexure is a reference to a section of or a schedule or annexure to this Agreement;

(g) a reference to any Party includes that Party's successors and permitted assigns;

(h) a reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced except to the extent prohibited by this Agreement or that other agreement or document;

(i) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation, code, by-law, ordinance or statutory instrument issued under it;

(j) a reference to writing includes a facsimile or electronic mail transmission and any means of reproducing words in a tangible and permanently visible form;

(k) a reference to "\$" is to the currency of Canada;

- (l) the word "**including**" means "**including without limitation**" and "**include**" and, "**includes**" will be construed similarly;
- (m) headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation;
- (n) a provision of this Agreement must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement;
- (o) there will be no presumption in law or in equity that any ambiguous or doubtful expression is to be resolved in favour of any particular Party;
- (p) in the calculation of time under this Agreement, all references to "**days**" are to calendar days, except that if the time for doing an act falls or expires on a day that is not a Business Day, the time is extended to the next Business Day; and
- (q) a person "controls" another person if that person directly or indirectly possesses the power to direct or cause the direction of the management and policies of that other person, whether through ownership or voting of securities, by contract or otherwise and "controlled by" and "under common control with" have similar meanings.

1.9 **Schedules.** Each of the following schedules shall be attached to and form part of this Agreement:

Schedule 1 - Common Definitions

Schedule 2 - Certainty Provisions Agreement

Schedule 3 - Relations Agreement

Schedule 4 - Archaeological Management Plan

Schedule 5 - Lower Bridge River Flow AMDM Framework

Schedule 6 - SDM Process

Schedule 7 - Relocation of 60L020

2. **PAYMENTS**

2.1 **One-Time Community Payments.** The Parties acknowledge that in accordance with the terms of the respective Community Settlement Agreements, BC Hydro has paid or will pay to the Participating Communities, for use in their respective discretion:

- (a) an amount of \$1,000,000 to each Participating Community (for an aggregate of \$10,000,000); and

- (b) an aggregate amount equal to \$23,000,000.

For greater certainty, the payments referred to in this Section 2.1 are the payments to be made by BC Hydro pursuant to Section 2.2(a)(i) (or in the case of T'it'q'et, Section 2.2(a)) of each of the Community Settlement Agreements entered into with the Participating Communities and are not in addition thereto.

- 2.2 **One-Time Nation Payment.** Within 60 days of the Effective Date, BC Hydro will on behalf of and at the direction of St'át'imc (PC) pay to the Trust \$16,000,000.

- 2.3 **Community Annual Payments.**

- (a) The Parties acknowledge that in accordance with the terms of the respective Community Settlement Agreements, BC Hydro will pay to some of the Participating Communities, for use in their respective discretion, the aggregate initial amount of \$1,191,000, subject to adjustment for CPI in accordance with the Community Settlement Agreements (the "**Community Annual Payment**").

- (b) For greater certainty, the payments referred to in this Section 2.3 are the Community Annual Payments to be made by BC Hydro pursuant to Section 2.2(a)(ii) of certain of the Community Settlement Agreements entered into with the Participating Communities and are not in addition thereto.

- 2.4 **Nation Annual Payments.**

- (a) Commencing on the first (1st) Anniversary and continuing on each Anniversary thereafter for 49 years to and including the 50th Anniversary, BC Hydro will on behalf of and at the direction of St'át'imc (PC) pay to the Trust the aggregate initial amount of \$5,775,735, subject to adjustment for CPI in accordance with Section 2.4(b) (the "**Nation Annual Payment**").

- (b) Commencing on the second (2nd) Anniversary and on each Anniversary thereafter to and including the 50th Anniversary, the Nation Annual Payment will be CPI Adjusted for the 12 month period ending at the end of the month that is the third month prior to the month in which the particular Anniversary falls, such adjustment to be applied to the immediately preceding Nation Annual Payment.

- 2.5 **Environment and Natural Resources Payments.**

- (a) Commencing on the first (1st) Anniversary and continuing on each Anniversary thereafter for 99 years to and including the 100th Anniversary, BC Hydro will on behalf of and at the direction of St'át'imc (PC) pay to the Trust the aggregate initial amount of \$440,000, subject to adjustment for CPI in accordance with Section 2.5(b) (the "**Environment and Natural Resources Payment**").

- (b) Commencing on the second (2nd) Anniversary and on each Anniversary thereafter to and including the 100th Anniversary, the Environment and Natural Resources Payment will be CPI Adjusted for the 12 month period ending at the

end of the month that is the third month prior to the month in which the particular Anniversary falls, such adjustment to be applied to the immediately preceding Environment and Natural Resources Payment.

- (c) St'át'imc (PC) agrees to use the Environment and Natural Resources Payment only for the purposes of funding environment and natural resource mitigation and enhancement initiatives, including inventory, monitoring, planning, research programs and the Bridge-Seton Watershed Strategic Plan.

2.6 Heritage and Culture Payments.

- (a) BC Hydro will on behalf of and at the direction of St'át'imc (PC) pay to the Trust:
 - (i) On the first (1st) Anniversary, the aggregate amount of \$575,000; and
 - (ii) On the second Anniversary and on each Anniversary thereafter for 3 years to and including the 5th Anniversary, the aggregate initial amount of \$1,015,000, subject to adjustment for CPI in accordance with Section 2.6(b).

(each a "**Heritage and Culture Payment**")

- (b) Commencing on the second (2nd) Anniversary and on each Anniversary thereafter to and including the 5th Anniversary, the Heritage and Culture Payment will be CPI Adjusted for the 12 month period ending at the end of the month that is the third month prior to the month in which the particular Anniversary falls, such adjustment to be applied to the immediately preceding Heritage and Culture Payment.
- (c) St'át'imc (PC) agrees to use the Heritage and Culture Payment only for the purposes of funding heritage and culture mitigation and enhancement initiatives, including the AMP.

2.7 Education and Training Payments.

- (a) Commencing on the first (1st) Anniversary and continuing on each Anniversary thereafter for 4 years to and including the 5th Anniversary, BC Hydro will on behalf of and at the direction of St'át'imc (PC) pay to the Trust the aggregate initial amount of \$440,000 subject to adjustment for CPI in accordance with Section 2.7(b) (the "**Education and Training Payment**").
- (b) Commencing on the second (2nd) Anniversary and on each Anniversary thereafter to and including the 5th Anniversary, the Education and Training Payment will be CPI Adjusted for the 12 month period ending at the end of the month that is the third month prior to the month in which the particular Anniversary falls, such adjustment to be applied to the immediately preceding Education and Training Payment.

- (c) St'át'imc (PC) agrees to use the Education and Training Payments only for the purposes of funding education and training initiatives.

2.8 Administration Fund Payments.

- (a) BC Hydro will on behalf of and at the direction of St'át'imc (PC) pay to the Trust:
 - (i) On the first (1st) Anniversary, the aggregate amount of \$380,000; and
 - (ii) On the second (2nd) Anniversary and on each Anniversary thereafter for 98 years to and including the 100th Anniversary, the aggregate initial amount of \$440,000, subject to adjustment for CPI in accordance with Section 2.8(b).

(each a "**Administration Fund Payment**")

- (b) Commencing on the second (2nd) Anniversary and on each Anniversary thereafter to and including the 100th Anniversary, the Administration Fund Payment will be CPI Adjusted for the 12 month period ending at the end of the month that is the third month prior to the month in which the particular Anniversary falls, such adjustment to be applied to the immediately preceding Administration Fund Payment.
- (c) St'át'imc (PC) agree to use the Administration Fund Payments only for the purposes of funding the costs to St'át'imc of implementing and meeting any and all of its obligations under the Settlement Documents.

- 2.9 New Transmission Line Nation Payment.** BC Hydro will within 60 days of its receipt of all material provincial and federal regulatory approvals for the New Transmission Line on behalf of and at the direction of St'át'imc (PC) pay to the Trust an amount having the principal value as of the Effective Date of \$3,000,000 (the "**New Transmission Line Nation Payment**"), as adjusted for CPI in accordance with this Section. The amount of the New Transmission Line Nation Payment will be CPI Adjusted for the period from the Effective Date to and including the end of the month that is the third month prior to the month in which the payment is to be made.

- 2.10 New Transmission Line Communities Payment.** The Parties acknowledge that in accordance with the terms of the respective Community Settlement Agreements with each of Tsal'álh, Xwisten and N'Quatqua BC Hydro will pay to such Communities an aggregate amount having the principal value as of the Effective Date of \$9,000,000, subject to adjustment for CPI in accordance with such Community Settlement Agreements.

- 2.11 Acknowledgements Regarding Payments.** The Parties acknowledge and agree that:

- (a) the direction provided by St'át'imc (PC) in Sections 2.2, 2.4, 2.5, 2.6, 2.7, 2.8 and 2.9 to pay the amounts referred to therein to the Trust is irrevocable unless otherwise agreed to by the Parties; and

- (b) the amount of the New Transmission Line Nation Payment, and the amount of the New Transmission Line Communities Payments represent an agreed allocation in the context of the overall settlement amount contemplated by this Agreement and do not represent appraised or negotiated amounts of financial accommodation for the New Transmission Line and are not to be used by the Parties as a representative amount for any other development.

2.12 **Late Payment.** If BC Hydro fails to make a payment when due under this Agreement, then the amount of such payment will accrue interest at the Interest Rate plus 4% per annum from the date such payment is due until the date such payment is made and this Section 2.12 is without prejudice to any rights or remedies of St'át'imc (PC) under the Dispute Resolution Process or under Section 2.13.

2.13 **Provincial Guarantee.** The Province hereby guarantees to St'át'imc (PC) the payment of the Nation Annual Payment, the Environment and Natural Resources Payment, the Heritage and Culture Payment, the Education and Training Payment, the Administration Fund Payment and the New Transmission Line Nation Payment. For greater certainty, it is acknowledged that the Province is not guaranteeing any other obligations of BC Hydro under this Agreement, the Relations Agreements or the Community Settlement Agreements, except for the guarantee of the Province under the Community Settlement Agreements of the payments referred to in Sections 2.3 and 2.10 of this Agreement.

3. TRUST

3.1 **Settlement of Trust.** Forthwith on or after the Effective Date, the Participating Communities shall settle the Trust. The terms of the Trust shall be substantially and in all material respects the same as the Agreed Trust Terms. Within five Business Days of the settlement of the Trust the Participating Communities shall provide BC Hydro and the Province with a true copy of the settled Trust certified by St'át'imc's legal counsel.

3.2 **Prior to Settlement of the Trust.** Notwithstanding anything contained in this Agreement to the contrary, BC Hydro shall have no obligation to pay any amounts payable to the Trust under this Agreement, or any interest thereon, unless and until the Trust has been settled as contemplated by Section 3.1.

3.3 Covenants Regarding the Trust.

- (a) Each of the Participating Communities will use reasonable efforts at all times after the settlement of the Trust to ensure that the terms and conditions of the Trust and any permitted successor trusts or entities are in all material respects the same as the Agreed Trust Terms, subject to such changes as are permitted by the terms of the Trust or such successor trusts or as may be required and agreed to by the Parties to comply with the then applicable legal requirements.
- (b) Each of the Participating Communities will promptly exercise their rights and powers under the Trust to remove and replace a Trustee to prevent, minimize and, to the extent possible, rectify any material breaches of the terms and conditions of the Trust to the extent they become aware of such a material breach or a potential

material breach. Without limiting the foregoing, a breach of any of the following terms and conditions of the Trust shall be considered to be a material breach of the terms and conditions of the Trust:

- (i) all the property of the Trust attributable to monies paid to the Trust pursuant to this Agreement is to be used by the beneficiaries of the Trust for the purposes set out in this Agreement and the Trust and no such property shall be distributed as direct payments to Community Members or otherwise expended for per capita distributions other than expenditures made for the purposes set out in this Agreement and the Trust through programs, scholarships, bursaries, or other similar initiatives available to a group or class of eligible recipients;
 - (ii) the Trust is not to be wound up in any manner until the Trust Final Distribution Date;
 - (iii) an Administrative Trustee shall be appointed at all times and the Administrative Trustee shall meet all applicable minimum qualifications and requirements under the terms and conditions of the Trust;
 - (iv) a qualified Investment Manager shall be engaged by the Trustees and the property of the Trust shall be invested in accordance with the Investment Policy to be established, all as contemplated by the Trust;
 - (v) no distributions are to be made from the Trust if it is reasonably likely that the making of such distributions will result in the net value of the property of the Trust being less than the Minimum Protected Amount as of the fifth anniversary of the date of settlement of the Trust and from and after such date no such distributions shall be made if the net value of the property of the Trust is less than the Minimum Protected Amount or the making of such distributions will have the effect of reducing the net value of the property of the Trust below the Minimum Protected Amount;
 - (vi) a qualified auditor is to be engaged by the Trustees and annual audits of the Trust and the use of funds distributed to beneficiaries from the Trust are to be completed each year, all as contemplated by the Trust; and
 - (vii) the terms and conditions of the Trust and any permitted successor trusts or entities shall at all times be in all material respects, with such changes as are permitted by the terms of the Trust or such successor trust or as may be required and agreed to by the Parties to comply with the then applicable legal requirements, the same as the Agreed Trust Terms.
- (c) Each of the Participating Communities will use any distributions received by them or paid on their behalf from the Trust for the purposes contemplated by the Trust and this Agreement.

3.4 **Amendment of Trust.** St'át'imc (PC) covenant to and in favour of BC Hydro that after the settlement of the Trust they will:

- (a) provide or cause to be provided to BC Hydro and the Province with not less than 60 days' written notice of any proposed amendments to the terms of the Trust; and
- (b) not consent to any amendment to the terms of the Trust except as provided in Section 15.1 of the Trust.

3.5 **Trust Audits.**

- (a) St'át'imc (PC) will within 30 days of its receipt of each annual audit report of the Trust as contemplated by the Trust (each, a "**Trust Audit Report**") post such Trust Audit Report in the band office of each of the Participating Communities for a period of not less than 14 days in a conspicuous location.
- (b) Within 30 days of the receipt of each Trust Audit Report St'át'imc (PC) shall ensure that BC Hydro is provided with a copy of such Trust Audit Report.

3.6 **Successor Trusts.** If the Trust Final Distribution Date occurs prior to the 99th Anniversary, St'át'imc (PC) covenant and agree to and in favour of BC Hydro and the Province that forthwith following their receipt of the remaining Trust Property (the "**Remaining Trust Property**") from the Trust following the Trust Final Distribution Date they will settle a new trust or such other form of entity as may be agreed upon by the Parties (the "**Successor Trust**") on substantially the same terms as the Trust (as at the Trust Final Distribution Date) and contribute the Remaining Trust Property to the Successor Trust.

3.7 **No Liability.** Neither BC Hydro nor the Province will have any liability whatsoever to St'át'imc(PC), any Participating Community or any Community Member for:

- (a) the settlement or performance of the Trust;
- (b) the selection, appointment or activities of any of the Trustees, investment managers or any other person involved in the receipt, investment, allocation, distribution or reporting of the monies from the Trust; or
- (c) the use to which monies from the Trust are put to or reporting in respect thereto.

3.8 **Fees.** The Parties agree that any fees, costs or expenses related to or in connection with the settlement and continued operation of the Trust, including those of the Trustees as well as any investment managers, may be paid, from time to time, from the Trust, but in any event shall be at no cost to BC Hydro or the Province.

4. OTHER SETTLEMENT DOCUMENTS

4.1 **Certainty Provisions Agreement.** In consideration for the amounts payable by BC Hydro under this Agreement and other valuable consideration, St'át'imc (PC), together with Lil'wat, the St'át'imc Authority, the Province and BC Hydro, is concurrently with the execution and delivery of this Agreement, executing and delivering the Certainty Provisions Agreement in the form attached as Schedule 2. The Parties acknowledge and agree that in accordance with and subject to Section 4.5 of the Certainty Provisions Agreement, St'át'imc will be entitled to participate in the Future Bridge River Water Use Planning and Future Cheakamus Water Use Planning.

4.2 **Relations Agreement.** In consideration for the amounts payable by BC Hydro under this Agreement and other valuable consideration, St'át'imc (PC), together with Lil'wat, the St'át'imc Authority and BC Hydro, is concurrently with the execution and delivery of this Agreement, executing and delivering the Relations Agreement in the form attached as Schedule 3.

5. GENERATION OPERATIONS

5.1 **Bridge-Seton Operating Regime.** Subject to Section 5.7 hereof and Section 4.5 of the Certainty Provisions Agreement and any Lawful orders made after the Effective Date by the Comptroller in respect of the operation of the Bridge-Seton Generation Facilities, BC Hydro will operate the Bridge-Seton Generation Facilities in accordance with the Bridge-Seton Operating Regime until a Material Closure of Bridge-Seton Generation Facilities. In the event of a proposed Material Closure of Bridge-Seton Generation Facilities BC Hydro and St'át'imc (PC) will negotiate in good faith such amendments to the Bridge-Seton Operating Regime as may be reasonably required to reflect the changed operating conditions resulting from the Material Closure of Bridge-Seton Generation Facilities.

5.2 Seton Sockeye Smolt Monitoring Program.

- (a) BC Hydro will use reasonable efforts to achieve the Seton Mortality Target by:
 - (i) modifying the Seton Generating Station operations during the Out-Migration Periods by continuing to adopt partial or blanket restrictions on daily generation (the "**SON Operation Modifications**");
 - (ii) monitoring annually for a period of 10 years from the Effective Date the effect of the SON Operation Modifications on the Seton Mortality Rate in order to assist BC Hydro in determining whether any refinements to the SON Operation Modifications will be necessary;
 - (iii) after the Seton Mortality Target has been monitored for 10 years from the Effective Date, meet with St'át'imc (PC) and use an SDM Process to determine any on-going, periodic monitoring of the Seton Mortality Rate or adjustments to the Seton Mortality Target that are necessary; and

- (iv) co-ordinating, to the extent reasonably possible, the dewatering of the power canal at Seton Lake for routine safety and maintenance purposes to coincide with the Out-Migration Period.
- (b) Unless otherwise agreed to by BC Hydro and St'át'imc (PC) or ordered by the Comptroller, BC Hydro agrees to implement the SON Operation Modifications or any refinements thereto for so long as the Seton Generating Station continues to operate.
- (c) BC Hydro and St'át'imc (PC) acknowledge and agree that:
 - (i) the Seton Mortality Target is a goal;
 - (ii) BC Hydro is agreeing to use reasonable efforts as set out in sections 5.2(a) and 5.2(b) above in order to achieve the Seton Mortality Target; and
 - (iii) if, despite BC Hydro's efforts set out in Sections 5.2(a) and 5.2(b) above, BC Hydro is unable to achieve the Seton Mortality Target, then:
 - (A) BC Hydro will not be in breach of this Agreement; and
 - (B) BC Hydro and St'át'imc (PC) will assess the appropriateness of the Seton Mortality Target and consider alternatives, or other measures in addition, to the SON Operation Modifications with the objective of reducing the Seton Mortality Rate.

5.3 Seton Lake Levels.

- (a) BC Hydro and St'át'imc (PC) will establish and BC Hydro will implement at BC Hydro's cost, the SLEMP which will involve:
 - (i) the completion of a ranked inventory of erosion sites, other than heritage or culture sites, around Seton Lake and at Sekw'elw'as's Reserve adjacent to Seton River resulting from the water level fluctuations of Seton Lake due to the operation of those Bridge-Seton Generation Facilities located on Seton Lake, Cayoose Creek and Seton River;
 - (ii) the development and implementation of mitigation plans in respect of such erosion sites (the "**Mitigation Plans**") and the potential corresponding requirements to temporarily lower the Seton Lake water level in order to implement the Mitigation Plans;
 - (iii) a process which facilitates the ability of BC Hydro and St'át'imc (PC) to coordinate the implementation of the SLEMP by BC Hydro with the implementation of cultural heritage mitigation work by St'át'imc; and,
 - (iv) monitoring by BC Hydro of the effectiveness of the Mitigation Plans.

- (b) The SLEMP will be completed on or before the 10th Anniversary, or such further time as agreed in writing by BC Hydro and St'át'imc.
- (c) Seton Lake water levels will be maintained between a minimum level of 235.76m above sea level and a maximum level of 236.36m above sea level (per geodetic survey of Canada), as measured in the vicinity of Bridge River Generating Station No. 1, except where specific lowering of the Seton Lake water level below the minimum level of 235.76m above sea level is required by:
 - (i) BC Hydro in order to facilitate the implementation of the SLEMP;
 - (ii) either BC Hydro with notice to St'át'imc, or St'át'imc (PC) subject to agreement by BC Hydro, in order to facilitate and, where possible, coordinate heritage mitigation work undertaken by BC Hydro or St'át'imc (PC) in accordance with the SLEMP;
 - (iii) BC Hydro, with notice to St'át'imc, for installation, repair, replacement, upgrade or maintenance activities required from time to time in connection with the Facilities;
 - (iv) BC Hydro to manage Emergencies, dam safety requirements or Unusual Hydrological Events; and
 - (v) BC Hydro, with notice to and agreement of St'át'imc, in order to facilitate and, where possible, coordinate other work associated with the Bridge River WUP or BCRP.

5.4 **Adult Fish Passage Research Program.**

- (a) At BC Hydro's cost, St'át'imc (PC) and BC Hydro agree to collaboratively develop and undertake a research program (the "**Research Program**") which will:
 - (i) commence as of the Effective Date;
 - (ii) monitor the effects, if any, of the operation of the Seton Generating Station and the Seton Lake Tunnel diversion, on anadromous salmonid migration and study the factors impeding upstream migration of fish due to delays in the tailrace at Seton Generating Station and the fish ladder located at the BC Hydro dam on the Seton River ;
 - (iii) run for a period of up to 10 years from the Effective Date unless otherwise agreed in writing by BC Hydro and St'át'imc; and
 - (iv) be funded up to \$200,000 per year unless otherwise agreed to in writing by BC Hydro.

- (b) BC Hydro and St'át'imc (PC) agree to meet from time to time to discuss and determine appropriate strategies, if any, to be implemented in an effort to mitigate the factors impeding upstream fish passage at Seton Generating Station, including possible modifications to the operation of the Seton Generating Station or the fish ladder located at the BC Hydro dam on the Seton River, and will use the results of the Research Program and the SDM Process to guide their discussions.

5.5 Lower Bridge River Flows.

- (a) BC Hydro will:
 - (i) in the first Spring immediately following the Effective Date, increase the annual average flow release water budget from the Terzaghi Dam from the current level of $3\text{m}^3/\text{s}$ to $6\text{m}^3/\text{s}$ (+/-5% of $6\text{m}^3/\text{s}$), provided it has first obtained approval from the Comptroller to do so;
 - (ii) maintain a water budget downstream of Terzaghi Dam of $6\text{m}^3/\text{s}$ /year (+/-5% of $6\text{m}^3/\text{s}$) for 4 years commencing from the date that the annual average flow release water budget from the Terzaghi Dam is increased in accordance with Section 5.5(a)(i) from the current level of $3\text{m}^3/\text{s}$ to $6\text{m}^3/\text{s}$ (+/-5% of $6\text{m}^3/\text{s}$); and
 - (iii) at BC Hydro's cost, and together with St'át'imc, develop and implement a field monitoring program of the annual water budget of $6\text{m}^3/\text{s}$ (+/- 5% of $6\text{m}^3/\text{s}$).
- (b) Unless otherwise agreed to by BC Hydro and St'át'imc (PC) or lawfully ordered by the Comptroller, BC Hydro and St'át'imc (PC) agree that the flow release from Terzaghi Dam will simulate a naturalized hydrograph that will not be less than an annual average water budget of $3\text{m}^3/\text{s}$ (+/-5% of $3\text{m}^3/\text{s}$) and will not exceed an annual average water budget of $6\text{m}^3/\text{s}$ (+/- 5% of $6\text{m}^3/\text{s}$). For greater certainty, it is acknowledged that St'át'imc (PC) is not in this Agreement agreeing to any other flow release that may be ordered by the Comptroller.
- (c) BC Hydro and St'át'imc (PC) in cooperation with the Bridge River WUP CC will, by December 31, 2015 or such other date agreed to by BC Hydro and St'át'imc (PC) or ordered by the Comptroller, determine the recommended flow release from Terzaghi Dam to be recommended to the Comptroller which must fall within the parameters set out in Section 5.5(b) and otherwise will be achieved by applying the Lower Bridge River Flow AMDM Framework that will take into account:
 - (i) the technical data gathered during the flow trial program for the period 1996 until until May, 2015;
 - (ii) a reasonable and appropriate balance of the ecological, social, cultural and economic values and interests of BC Hydro, St'át'imc, DFO, MOE and the Bridge River WUP CC; and

- (iii) opportunities for restoration of aquatic and riparian habitats in the Bridge River downstream of Terzaghi Dam.
- (d) BC Hydro and St'át'imc (PC) agree that, while the lower Bridge River flows are being tested and monitored as provided by this Section 5.5, other enhancement projects implemented by St'át'imc (PC) within the Bridge River, or elsewhere in the Territory, can proceed provided such projects do not conflict with or confound the results of the flow trials.

5.6 Implementation of Bridge River WUP. BC Hydro agrees to implement the Bridge River WUP in a manner that:

- (a) is consistent with the Bridge-Seton Watershed Strategic Plan;
- (b) provides for collaboration amongst BC Hydro, St'át'imc (PC) and the Bridge River WUP CC with respect to finalizing the detailed terms of reference and budgets for the monitoring programs and physical works projects required under the Bridge River WUP; and
- (c) promotes collaboration with the mitigation and enhancement programs and initiatives that St'át'imc (PC) implement using the Environmental and Natural Resource Payments;

to the extent BC Hydro is able to do so in a commercially reasonable and socially responsible manner that is consistent with orders of the Comptroller and BC Hydro's other legal and regulatory obligations.

5.7 Emergencies, Dam Safety or Unusual Hydrologic Events. Notwithstanding anything contained herein to the contrary, if there is an Emergency, dam safety requirement or Unusual Hydrologic Event, then BC Hydro:

- (a) may, as required in the circumstances and at its discretion, operate the Bridge-Seton Generation Facilities in an alternate manner from the requirements of the Bridge-Seton Operating Regime for only so long as is required to manage the Emergency, dam safety requirement or Unusual Hydrologic Event;
- (b) will use the reasonable standard of care required of a hydroelectric generating utility in the exercise of BC Hydro's discretion under Section 5.7(a) and take reasonable steps to avoid or mitigate impacts resulting from operating the Bridge-Seton Generation Facilities in such manner;
- (c) will, to the extent possible given time constraints associated with the Emergency, dam safety or Unusual Hydrologic Event, provide notice in a timely manner to St'át'imc (PC) of such alternate operations and any reasonable steps proposed to be taken or which are being taken to avoid or mitigate impacts resulting from such alternate operations;

- (d) will, upon request by the St'át'imc (PC) and to the extent possible given time constraints associated with the Emergency, dam safety or Unusual Hydrologic Event, meet in a timely manner with St'át'imc (PC) and if necessary stakeholders and applicable regulatory agencies to discuss such alternate operations and any reasonable steps proposed to be taken or which are being taken to avoid or mitigate impacts resulting from such alternate operations; and
- (e) will return to operating the Bridge-Seton Generation Facilities in accordance with the Bridge-Seton Operating Regime once the Emergency, dam safety requirement or Unusual Hydrologic Event has concluded.

5.8 **BC Hydro Operating Orders.** BC Hydro will ensure that its relevant internal operating orders in respect of the Bridge-Seton Generation Facilities are consistent with the Bridge-Seton Operating Regime and that such internal operating orders are communicated to and understood by the relevant employees, agents or contractors of BC Hydro to the extent applicable.

6. SOUTHERN COMMUNITY GRID CONNECTION

6.1 **Connection to the Grid.** The Parties acknowledge that BC Hydro has undertaken the connection of the three southern Communities of Skatin, Xa'xtsa and Samahquam to the British Columbia transmission system in all material respects on the terms and conditions contained in the Grid Connection Agreement.

7. RELOCATION OF 60L020 TRANSMISSION LINE

7.1 **Representation of Communities.** Without limiting Section 1.2, each Participating Community other than Xaxli'p and Xwisten authorize St'át'imc Authority to represent it in and carry out any of its obligations relating to the 60L020 transmission line, including:

- (a) the finalization of the route selection; and
- (b) the completion of any heritage, cultural and archaeological impact assessment studies.

7.2 **Relocation** Upon BC Hydro receiving all Authorizations required for the relocation, BC Hydro agrees to relocate that portion of the 60L020 transmission line identified in Schedule 7 as the "Portion of 60L020 to be Relocated" to the route area identified in Schedule 7 as the "60L020 Relocation" or any other mutually agreed upon route (the "**Relocated Route Area**"). Subject to the finalization of the route within the Relocated Route Area and the completion of any mutually agreed upon heritage, cultural and archaeological impact assessment studies and mitigation strategies, St'át'imc (PC), Xwisten and Xaxli'p agree to the relocation within the Territory.

7.3 **Mitigation Strategies.** The Parties will work together to identify strategies to avoid, mitigate or manage the adverse impacts (other than socio-economic impacts which impacts have been accommodated by this Agreement) of the relocation of the 60L020 transmission line. BC Hydro will work to mitigate such identified impacts (including

mitigating any conflicts between St'át'imc (PC)'s fish harvesting activities and the construction schedule for the relocation of 60L020) to the extent it is commercially reasonable to do so. For greater certainty, the Parties acknowledge and agree that neither BC Hydro, nor the Province shall be required to pay to any of the Releasors any further financial accommodation or compensation arising from the relocation of the 60L020 transmission line (including from the existence, authorization, design, construction, installation, operation, maintenance, repair, reconstruction, alteration, upgrading, closure, removal, relocation or replacement of the Relocated 60L020 Line) beyond the payments and other accommodation provided for in this Agreement, even where mitigation of any identified impacts are determined by BC Hydro not to be commercially reasonable.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of St'át'imc Authority. The St'át'imc Authority warrants and represents to BC Hydro and the Province that:

- (a) it has the legal power, capacity and authority to enter into this Agreement;
- (b) this Agreement is a valid and legally binding obligation of the St'át'imc Authority; and
- (c) the St'át'imc Authority has taken all necessary actions and obtained all necessary approvals to enter into this Agreement and carry out its obligations under this Agreement.

8.2 Representations and Warranties of each Participating Community. Each Participating Community warrants and represents to BC Hydro and the Province that:

- (a) its Band Council is a duly constituted band council under the *Indian Act*;
- (b) it has the legal power, capacity and authority to enter into this Agreement for and on behalf of itself and its Community Members and to carry out its obligations under this Agreement;
- (c) this Agreement is a valid and legally binding obligation of such Community and its Community Members;
- (d) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement for and on behalf of its Community Members and carry out its obligations under this Agreement, including authorizing the St'át'imc Authority to represent it in the manner contemplated by this Agreement; and
- (e) all of the representations and warranties made by such Community under the Ratification Agreement are true and correct as of the date hereof and all the covenants and obligations to be performed or satisfied by such Community under the Ratification Agreement have been performed or satisfied in accordance with the terms of the Ratification Agreement in all material respects.

8.3 **Representations and Warranties of BC Hydro.** BC Hydro warrants and represents to St'át'imc (PC) and the Province that:

- (a) it has the legal power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement;
- (b) this Agreement is a valid and legally binding obligation of BC Hydro;
- (c) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement and carry out its obligations under this Agreement;
- (d) it has disclosed in Schedule 4 to the Certainty Provisions Agreement all material Water Licences held by BC Hydro as of the Effective Date in respect of the Bridge-Seton Generation Facilities or the Cheakamus Generation Facilities;
- (e) to the best of its knowledge and belief, the information related to the Facilities and BC Hydro's operation of the Facilities that has been provided by BC Hydro to the St'át'imc pursuant to the Negotiating Protocol has been accurate information in all material respects; and
- (f) the rights of way or easements upon which transmission lines 5L41, 2L01 and 2L02 are located are the only transmission line rights of ways or easements held by or on behalf of BC Hydro in the Territory as of the Effective Date that could accommodate the installation of a second side by side transmission line based on the terms of such rights of way or easements and safety, engineering and design standards existing as of the Effective Date and applicable to such installation.

8.4 **Representations and Warranties of the Province.** The Province warrants and represents to BC Hydro and St'át'imc (PC) that:

- (a) it has the legal power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement;
- (b) this Agreement is a valid and legally binding obligation of the Province; and
- (c) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement and carry out its obligations under this Agreement.

8.5 **Survival of Representations and Warranties.** The representations and warranties of each of the Parties contained in this Article shall survive and continue in full force and effect indefinitely for the benefit of the other Parties.

8.6 **Reliance.** Each Party acknowledges and agrees that the other Parties have entered into this Agreement relying on the representations and warranties and other terms and conditions of this Agreement, notwithstanding any independent searches or investigations that have been or may be undertaken by or on behalf of such Party and that no information which is now known or should be known or which may hereafter become

known to a Party or its professional advisors shall limit or estop that Party from seeking to enforce the Agreement in accordance with its terms.

9. DEFAULT

9.1 **Events of Default.** An event of default (a “**Default**”) arises if a Party (a “**Defaulting Party**”) fails to observe, perform or carry out any of its obligations under this Agreement and such failure continues for 30 days (or such longer period of time as the Non-Defaulting Parties may consent to, acting reasonably) after any Party not in default (a “**Non-Defaulting Party**” individually and the “**Non-Defaulting Parties**” collectively) gives a written notice of the Default to the Defaulting Party and the other Non-Defaulting Party, which notice shall set out particulars of the Default and demand that the Default be cured.

9.2 **Remedies for Default by St’át’imc (PC) or a Participating Community.** For any Default by St’át’imc (PC) or any Participating Community:

- (a) BC Hydro may, subject to Section 10, pursue any remedy available to BC Hydro under the Dispute Resolution Process, including damages or other financial sanctions;
- (b) the Province may pursue the remedies available to it at law or in equity.

9.3 **Remedies for Default by BC Hydro.** Subject to Sections 10 and 1.2, for any Default by BC Hydro, St’át’imc (PC) may pursue any remedy available to it under the Dispute Resolution Process, including damages or other financial sanctions.

9.4 **Remedies for Default by the Province.** For any Default by the Province, St’át’imc (PC) may pursue the remedies available to it at law or in equity.

9.5 **Waiver.** Any Party may waive, in writing, a Default by another Party, but any such waiver of a particular Default will not operate as a waiver of any subsequent or continuing Default.

10. DISPUTE RESOLUTION

10.1 **Scope of Dispute Resolution Process.** Subject to Section 10.2, and except as otherwise provided in this Agreement, all disputes, differences and disagreements between BC Hydro and St’át’imc (PC) and/or one or more Participating Communities as to the meaning, application, or implementation of any provision of this Agreement, including but not limited to any dispute, difference, or disagreement as to:

- (a) whether or not a Default has occurred under this Agreement;
- (b) whether or not a proposed action by a Party will constitute a Default under this Agreement;

- (c) any claim for damages or any other remedy for a Default by BC Hydro and St'át'imc (PC) and/or one or more Participating Communities;
- (d) whether or not a proposed or actual Closure of one or more Bridge-Seton Generation Facilities that are referred to in Section (l)(i) of the definition of Bridge-Seton Generation Facilities amounts to a Material Closure of Bridge-Seton Generation Facilities;

will be resolved in accordance with the Dispute Resolution Process under this Section 10.

10.2 **Exclusions.** The Dispute Resolution Process under this Section 10 does not apply to any dispute, difference, or disagreement between St'át'imc (PC) and/or one or more Participating Communities and the Province under this Agreement or otherwise.

10.3 **Confidentiality of Process.** The Parties and the Disputing Parties will keep confidential all discussions, negotiations, mediations, arbitrations and any other communications and proceedings conducted under the Dispute Resolution Process, and will not disclose to any other person such discussions, negotiations, mediations, arbitrations or other communications or proceedings, or the content thereof, unless previously discussed and agreed to in writing by the Disputing Parties or otherwise required by Law. For greater certainty:

- (a) nothing herein shall restrict BC Hydro's ability to keep the Province informed with respect to any Disputes;
- (b) no part of the Dispute Resolution Process will be open to the public; and
- (c) nothing herein shall restrict the St'át'imc (PC)'s ability to keep their Community Members informed with respect to any Disputes.

10.4 **Notice of Dispute.** A Disputing Party may invoke the Dispute Resolution Process by delivering a written notice to the other Parties that a Dispute exists (a "**Dispute Notice**"), describing the nature and extent of the Dispute.

10.5 **Stages.** Except as provided in Section 10.6, or as otherwise agreed to by the Disputing Parties, any Disputes arising between the Disputing Parties will progress, until resolved, through the following stages of the Dispute Resolution Process:

STAGE 1: Within 30 days of a Dispute Notice, the Steering Committee Representatives will make bona fide efforts to resolve the Dispute.

STAGE 2: If the Steering Committee Representatives are unable to resolve the Dispute within 30 days of the Dispute Notice (the "**Stage 1 Dispute Period**"), the Principals will, within 15 days of the expiry of the Stage 1 Dispute Period, meet and make bona fide efforts to resolve the Dispute.

STAGE 3: If the Principals are unable to resolve the Dispute within 30 days of the end of the Stage 1 Dispute Period, then any Disputing Party may give written notice to the

other Disputing Party of a desire to commence mediation, and the Disputing Parties will jointly appoint a mutually acceptable mediator within 30 days after such notice is given. If the Disputing Parties are unable to agree upon the appointment of a mediator within 30 days after a Disputing Party has given written notice of a desire to mediate the Dispute, any Disputing Party may apply to the British Columbia Mediator Roster Society for the appointment of a mediator. The mediation will be conducted under the Mediation Rules of the British Columbia Mediator Roster Society unless otherwise agreed to in writing by the Disputing Parties.

STAGE 4: If the Dispute has not been resolved through mediation under Stage 3 within 60 days of the appointment of a mediator, then any Disputing Party, by means of written notice to the other Disputing Parties, may refer such unresolved Dispute to binding arbitration under the *Commercial Arbitration Act*. The Disputing Parties will agree on a single arbitrator within 30 days of the notice of arbitration being provided, failing which the arbitrator will be selected in accordance with the *Commercial Arbitration Act*. The decision of the arbitrator will be final and binding on the Disputing Parties.

- 10.6 **Exception to Dispute Resolution Process.** Despite anything else in this Section 10:
- (a) any Disputing Party may by notice in writing to the other Disputing Parties elect to refer a Dispute relating to whether an action or a proposed action by any Disputing Party will constitute a material Default directly to Stage 4 of Section 10.5 for arbitration; or
 - (b) in urgent circumstances, a Dispute referred directly to arbitration under Section 10.6(a) will be conducted on an expedited basis, to the extent reasonably necessary, to avoid prejudice to a Disputing Party.
- 10.7 **Without Prejudice.** The Disputing Parties' attempts during Stages 1 - 3 to resolve a Dispute are without prejudice to any position or argument such Disputing Parties may wish to make in Stage 4.
- 10.8 **Availability of Argument.** In any Dispute, a Disputing Party may raise any defence or argument that it would otherwise have been able to raise at law, equity, or otherwise, had the dispute been referred to a court of competent jurisdiction, including a defence that the Dispute is statute-barred by the *Limitation Act*, R.S.B.C. 1996, c. 266.
- 10.9 **Arbitrator's Powers.** An arbitrator appointed under this Section 10 may award remedies at law and in equity (including injunctive relief), but may not make any award that restricts, constrains, or alters BC Hydro's use or operation of the Facilities except in circumstances where BC Hydro is in breach of Section 5.1, in which case an arbitrator may, amongst other things, require BC Hydro to comply with its obligations under that provision.
- 10.10 **No Further Claims.** When Disputes are resolved under this Section 10:
- (a) no Disputing Party may make any further claim against the other Disputing Parties; and

- (b) no further compensation will be payable by a Disputing Party to the other Disputing Parties;

for the same Dispute.

10.11 **Dispute Resolution Costs.** Unless otherwise ordered by an arbitrator appointed under this Section 10, in any Dispute to which the Dispute Resolution Process applies, each Disputing Party will be responsible for all of its own costs and its equal share of the shared costs, including the cost of mediators, arbitrators, facilities, and reporters necessary to conduct the Dispute Resolution Process. For greater certainty, any arbitrator shall have the authority to assess costs, including actual costs against a Disputing Party.

10.12 **Province's Action During Dispute Resolution Process.** If BC Hydro gives notice to St'át'imc (PC) and/or one of more Participating Communities of a Dispute under the Dispute Resolution Process under Section 10.4, the Province will not initiate or continue to pursue any action seeking any remedy available to it at law or in equity for the same issue which is the subject of the Dispute until after that Dispute is resolved (as between BC Hydro and the other Disputing Parties) through the Dispute Resolution Process, except:

- (a) to prevent the loss of a right of action due to the expiration of a limitation period;
- (b) to obtain interlocutory or interim relief; or
- (c) if the matter is considered by the Province to be of an urgent nature.

11. FORCE MAJEURE

11.1 **Notice of Force Majeure.** Subject to Section 11.6, a Party will not be liable for any delay or failure to perform any of its obligations under this Agreement if as soon as possible after the beginning of the Event of Force Majeure affecting the ability of the Party to perform any of its obligations under this Agreement, it gives a notice, in writing, to the other Parties that complies with Section 11.2 and it otherwise complies with its obligations under this Section 11.

11.2 **Force Majeure Notice.** A notice given under Section 11.1 must to the extent reasonably possible in the circumstances:

- (a) specify the obligations the Affected Party cannot perform;
- (b) fully describe the Event of Force Majeure;
- (c) estimate the time during which the Event of Force Majeure will continue; and
- (d) specify the measures proposed to be adopted to remedy or abate the Event of Force Majeure.

11.3 **Obligation to Remedy and Mitigate.** Subject to Section 11.6, the Affected Party must take all actions that are reasonably practicable:

- (a) to remedy the Event of Force Majeure and resume performance of its obligations under this Agreement as soon as reasonably possible thereafter, acting diligently; and
- (b) to mitigate any liability suffered by the other Parties as a result of its failure to carry out its obligations under this Agreement but without any obligation to make any additional monetary compensation.

As reasonably requested from time to time by another Party an Affected Party will meet with the other Parties to discuss the Event of Force Majeure and the steps proposed to be taken or taken to remedy and mitigate it.

11.4 **Mitigation.** Any Party which is not the Affected Party must use reasonable efforts to remove or mitigate and co-operate in the removal and mitigation of the Event of Force Majeure and its effects.

11.5 **Effect of Force Majeure on Time and Payment.** Subject to Section 11.3, any time period provided for in this Agreement will be extended by a period equivalent to the period of delay resulting from the Event of Force Majeure.

11.6 **Exceptions.** Nothing in this Section 11:

- (a) shall allow a Party to rely upon an Event of Force Majeure to relieve such Party from performing any obligation to pay money under this Agreement when due or any of its obligations under Section 3.4(b);
- (b) obliges BC Hydro, the Province or St'át'imc (PC) to:
 - (i) settle any strike, lockout, ban, limitation of work or other industrial disturbance;
 - (ii) test the validity of any Law; or
 - (iii) perform its obligations under this Agreement if the Event of Force Majeure renders performance impossible or unreasonably expensive.

12. GENERAL

12.1 **Notices.** Except as otherwise provided in this Agreement, any notice, direction, demand, request, or document required or permitted to be given by any Party to any other Party under this Agreement will be in writing and deemed to have been sufficiently given if signed by or on behalf of the Party giving the notice and delivered in person or transmitted by facsimile to the other Party's address or facsimile number as shown below:

To St'át'imc Authority or St'át'imc (PC):

St'át'imc
Box 2218, 650 Industrial Place
Lillooet, BC V0K 1V0

Attention: Executive Director

Facsimile: 250-256-0445

With a copy to:

Mandell Pinder
422-1080 Mainland Street
Vancouver, BC V6B 2T4

Attention: Brenda Gaertner

Facsimile: 604-681-0959

To BC Hydro:

British Columbia Hydro and Power Authority
6911 Southpoint Drive
Burnaby, BC V3N 4X8

Attention: Lyle Viereck, Director Aboriginal Relations and Negotiations

Facsimile: 604-528-3157

With a copy to:

Fasken Martineau DuMoulin, LLP
3400 - 350 7 Avenue SW
Calgary, AB T2P 3N9

Attention: Peter Feldberg

Facsimile: 403-261-5351

To the Province:

Ministry of Aboriginal Relations and Reconciliation
2957 Jutland Road, 5th Floor
P.O. Box 9100, Stn Prov. Gov.
Victoria, BC V8W 9B1

Attention: Deputy Minister

Facsimile: 250-387-6073

With a copy to:

Ministry of Attorney General
4th Floor, 1405 Douglas Street
Victoria, BC V8W 2G2

Attention: Geoff Moyse

Facsimile: 250-356-8939

or to such other address or to such other facsimile number or to the attention of such other official or individual as a Party will have most recently notified the other Parties in writing. The Parties will, from time to time, provide written notice to the other Parties of any changes to the contact persons or contact details listed for such Party under this Section 12.1. Any such notice, direction, request, or document will conclusively be deemed to have been received by the intended recipient on the date of delivery or transmission, as the case may be, except that if it is not received at such address or at the facsimile device by 5:00 P.M. on a Business Day (at the place of receipt) it will conclusively be deemed to have been received by the intended recipient on the next Business Day immediately following its receipt at such address or at such facsimile device.

- 12.2 **Entire Agreement.** The Settlement Documents to which any Participating Community is a party and any other arrangement in writing between any of the Parties, which is entered into substantially contemporaneously with this Agreement, constitutes the entire agreement among the Parties relating to the subject matter of this Agreement and supersedes all prior negotiations and agreements, whether written, oral, implied, or collateral, among the Parties with respect to the subject matter of this Agreement, including without limitation 1998 MOU and the Negotiating Protocol, which are terminated hereby.
- 12.3 **Independent Legal Advice.** Each of the Parties acknowledges that each of them will have executed this Agreement freely and voluntarily, without duress and after receiving independent legal advice from their respective solicitors.

- 12.4 **Set-Off.** If under this Agreement, the Ratification Agreement, the Certainty Provisions Agreement (other than pursuant to the indemnity of Lil'wat under Section 3.4 of that Agreement), the Relations Agreement or any Community Settlement Agreement entered into by a Participating Community, a Party (the "**Owing Party**") becomes obligated under a dispute resolution determination or, in the case of disputes between the Province and a Party, under a judgment of a court, to pay any sum of money to another Party (the "**Intended Recipient**"), then such sum may, at the election of the Intended Recipient and without limiting or waiving any right or remedy of the Intended Recipient, be set off against and will apply to any sum of money owed by the Intended Recipient under any of such Agreements (other than monies owed by BC Hydro under the Relations Agreement in respect of capacity funding) and payable to the Owing Party, until such amount has been completely set-off. For greater certainty, BC Hydro or the Province may set off against any amount payable by it under this Agreement to St'át'imc (PC) (either directly or to the Trust) or any Participating Community any amount that may become owing by St'át'imc or one or more Communities to BC Hydro or the Province under the Ratification Agreement, the Certainty Provisions Agreement (other than pursuant to the indemnity of Lil'wat under Section 3.4 of that Agreement), the Relations Agreement or any Community Settlement Agreement entered into by a Participating Community.
- 12.5 **General Compliance.** Each Party shall comply at all times and in all respects with the requirements of all Laws applicable to this Agreement and the operations of the Parties hereunder.
- 12.6 **General Sharing of Information.** The Parties agree, subject to any confidentiality obligations to third parties or any security concern, to provide to the other Parties such information requested by the other Parties, acting reasonably, as may be necessary to properly carry out the obligations under this Agreement.
- 12.7 **Governing Law.** This Agreement is deemed to be made in British Columbia, and will be governed by and construed and interpreted in accordance with the laws of British Columbia and the laws of Canada applicable therein.
- 12.8 **Assignment and Successorship.**
- (a) BC Hydro may assign its rights and obligations under this Agreement to future owners of the Facilities, subject to the consent of St'át'imc (PC), such consent not to be unreasonably withheld or delayed.
 - (b) Subject to Section 12.8(c), neither St'át'imc (PC) nor any Participating Community may assign any of its rights or obligations under this Agreement, without the consent of BC Hydro, which consent may be withheld in the discretion of BC Hydro. If, at the time that either St'át'imc (PC) or any one or more Participating Communities makes a written request for the consent of BC Hydro to an assignment of any of its rights or obligations under this Agreement, a demand under the guarantee of the Province pursuant to Section 2.13 has been made by St'át'imc (PC) and the Province has made the most recent payment due and owing by BC Hydro under this Agreement, then, in addition to the consent of

BC Hydro, the consent of the Province to such assignment shall also be required, which consent may be withheld in the discretion of the Province.

- (c) St'át'imc (PC) may with the consent of BC Hydro, such consent not to be unreasonably withheld, assign its right to receive payments from BC Hydro under this Agreement (the "**Assigned Payments**") to a third party bona fide institutional lender as security for a loan or loans by such lender to St'át'imc (PC) or the Trust provided that:
 - (i) the proceeds of such loan are used by St'át'imc (PC) or the Trust to finance a project that is consistent with the purposes for which payments made under this Agreement by BC Hydro are to be used; and
 - (ii) any Assigned Payments shall remain subject to BC Hydro's and the Province's right of set-off under Section 12.4.
 - (d) Each Participating Community will ensure that this Agreement and such Participating Community's obligations hereunder will be assumed, adopted and ratified unaltered in form and substance by its successor organization or government, or any new organization or government which effectively replaces such Participating Community in the event that it ceases to exist as an Indian Band within the meaning of the *Indian Act* pursuant to any agreement, treaty, land claim agreement, self-government agreement or other agreement or legislation, or in the exercise of any rights or powers granted pursuant to those agreements, that such Participating Community (or any other group of which the Participating Community forms a part) may enter into with the Government of Canada and/or the Province.
- 12.9 **Amendment.** The only amendments to this Agreement which are binding on the Parties are written amendments signed by all Parties. For the St'át'imc (PC), such amendments must be consented to by the St'át'imc Authority and each of the Participating Communities, without further ratification by the Participating Community's Community Members or Members.
- 12.10 **Further Assurances.** As and so often as a Party may reasonably require, each Party will execute and deliver further documents and assurances as may be necessary to properly carry out this Agreement.
- 12.11 **Waivers.** No provision of this Agreement may be waived by a Party, except by written notice to the other Parties and any waiver of a provision:
- (a) is valid only in respect of the specific instance to which it relates and is not a continuing waiver; and
 - (b) is not a waiver of any other provision.
- 12.12 **Time.** Time will be of the essence of this Agreement.

12.13 **Counterparts.** This Agreement may be signed in one or more counterparts, each counterpart may be transmitted by facsimile or email and each will constitute an original instrument and such counterparts, taken together, will constitute one and the same document.

This Agreement has been executed and delivered as of the date of this Agreement as set out on the first page.

St'át'imc Authority:

ST'ÁT'IMC CHIEFS COUNCIL

By:



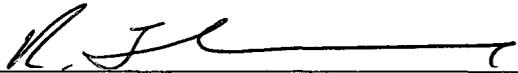
The Chair of the SCC, Michael Leach

St'át'imc (PC) Parties

N'Quatqua:

N'QUATQUA INDIAN BAND

By:



Chief Arthur Ralph Thevarge

Samahquam:

SAMAHQUAM INDIAN BAND

By:



Chief Brenda Lester

Sekw'elw'as:

CAYOOSE CREEK INDIAN BAND

By:



Chief Perry Redan

Skatin:

SKATIN NATIONS INDIAN BAND

By:

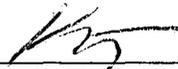


Chief Patrick Williams

T'it'q'et:

T'IT'Q'ET INDIAN BAND

By:



Chief Kevin Whitney

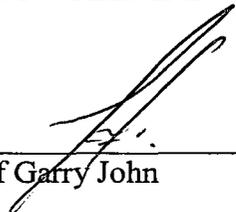


Tribal Chief Shelley Leach

Tsal'álh:

SETON LAKE INDIAN BAND

By:

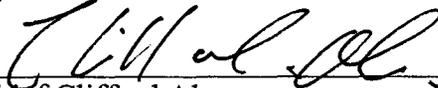


Chief Garry John

Ts'kw'aylaxw:

TS'KW'AYLAXW FIRST NATION

By:

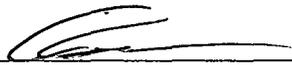


Chief Clifford Alec

Xaxli'p:

XAXLI'P INDIAN BAND

By:



Chief Arthur Adolph

Xa'xtsa:

DOUGLAS INDIAN BAND

By:



Chief Donald Harris

Xwisten:

BRIDGE RIVER INDIAN BAND

By:



Chief Bradley Jack

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:



President and CEO David Cobb

**HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA**

By:

Honourable Mary Polak,
Minister of Aboriginal Relations and
Reconciliation

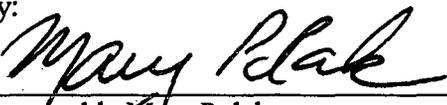
**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:

President and CEO David Cobb

**HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA**

By:



Honourable Mary Polak,
Minister of Aboriginal Relations and
Reconciliation

SCHEDULE 1

COMMON DEFINITIONS

In this Agreement, including the recitals/preamble, the following words, phrases and expressions have the following meanings, unless such words, phrases or expressions are otherwise defined in Section 1.1 of this Agreement, in which case the definitions in Section 1.1 shall apply and take precedence.

- (a) **"Affected Party"** means a Party whose performance of any of its obligations under this Agreement is affected by an Event of Force Majeure;
- (b) **"Anniversary"** means an anniversary of the Effective Date;
- (c) **"Authorizations"** means all rights, tenures, approvals, permits, licences (including Water Licences), easements, orders and any other authorizations held by, or on behalf of, BC Hydro for the Facilities as of the Effective Date or in the future, including any renewals, replacements, amendments or changes made thereto after the Effective Date, but excluding New Authorizations;
- (d) **"Band Council"** means, in respect to a Community, the duly elected "council of the band" of that Community within the meaning of the *Indian Act*, and any successors thereof;
- (e) **"Band Council Resolution"** means, in respect to a Community, a resolution duly passed by the Band Council and signed by at least a majority of the councillors present at a meeting of the Band Council duly convened;
- (f) **"BC Hydro"** means British Columbia Hydro and Power Authority, a Crown corporation continued under the *Hydro and Power Authority Act*, R.S.B.C. 1996, c.212 and includes any of its permitted assignees or successor entities;
- (g) **"BCRP"** means the Bridge Coastal Restoration Program, a program funded by BC Hydro with a governing board comprised of individuals from First Nations, the public and the Provincial and Federal governments with the objective of funding projects which address the footprint impacts (as contemplated by such program) associated with BC Hydro facilities located within the Bridge – Coastal area of British Columbia;
- (h) **"BCTC"** means British Columbia Transmission Corporation, currently a Crown corporation organized under the laws of British Columbia, and includes any of its assignees or successor entities;

- (i) **"Bridge River WUP"** means the Bridge River Power Development Water Use Plan dated March 17, 2011 and approved by the Comptroller pursuant to the Bridge River WUP Order, and:
 - (i) any amendments to or renewals or replacements of the Bridge River WUP from time to time, provided such amendments, renewals or replacements do not result in a change in the terms and conditions of the Bridge River WUP that would allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime; and
 - (ii) any amendments to or renewals or replacements of the Bridge River WUP that result in a change in the terms and conditions of the Bridge River WUP that would allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime, provided that such amendments, renewals or replacements are agreed to in writing by BC Hydro and St'át'imc;
- (j) **"Bridge River WUP CC"** means the Bridge River WUP consultative committee;
- (k) **"Bridge River WUP Order"** means the order of the Comptroller dated March 30, 2011 approving the Bridge River WUP;
- (l) **"Bridge-Seton Generation Facilities"** means:
 - (i) BC Hydro's Downton Reservoir, La Joie Dam, La Joie Generating Station, Carpenter Reservoir, Terzaghi Dam, Bridge Generating Station Number 1, Bridge Generating Station Number 2, Cayoosh Diversion Tunnel, Seton Dam, Seton Canal, Seton Generating Station and BC Hydro's use of Seton Lake as a Reservoir;
 - (ii) any works, operations, components and assets related or ancillary to those generation facilities referred to in Section (l)(i) of this definition; and
 - (iii) those generation facilities referred to in Sections (l)(i) and (l)(ii) of this definition, as the same may be installed, maintained, repaired, altered, upgraded, relocated, reconstructed or replaced at any time after the Effective Date, whether or not the installation, maintenance, repair, alteration, upgrade, relocation, reconstruction or replacement results in a change in the capacity, energy output or efficiency of those facilities;

but excluding in all circumstances any New Facilities;

- (m) **"Bridge-Seton Generation Facilities Closure Date"** means the date upon which all of the Bridge-Seton Generation Facilities referred to in Section (l)(i) of the definition of Bridge-Seton Generation Facilities have been Closed;
- (n) **"Bridge-Seton Operating Regime"** means the operation of the Bridge-Seton Generation Facilities in a manner that is consistent with the requirements of the:
- (i) Water Licences relating to the Bridge-Seton Generation Facilities;
 - (ii) St'át'imc Conditions; and
 - (iii) Bridge River WUP;

provided that temporary minor operational deviations by BC Hydro from such requirements from time to time due to either the naturally occurring unpredictable characteristics of water flows in the Bridge-Seton Watershed or the inherent demands and variability associated with the day-to-day operation and maintenance of the Bridge-Seton Generation Facilities and related transmission Facilities shall be permitted;

- (o) **"Bridge-Seton Watershed"** means the La Joie basin, the Terzaghi local basin, Anderson Lake and the Seton basin (including Cayoosh Creek), all of which fall within the geographic area outlined in the map attached as Schedule D to the Relations Agreement;
- (p) **"Bridge-Seton Watershed Strategic Plan"** means the watershed strategic plan to be developed collaboratively by BC Hydro and St'át'imc as contemplated by the Relations Agreement with the objective of providing strategic level planning and coordination amongst St'át'imc environment and natural resources mitigation and enhancement projects and any other like mitigation or monitoring programs undertaken or funded by BC Hydro within the Bridge-Seton Watershed, including the Bridge-Seton WUP physical works projects or monitoring programs or BCRP projects;
- (q) **"Business Day"** means any day other than a Saturday, Sunday, statutory holiday in British Columbia, St'át'imc Declaration Day (May 10) or National Aboriginal Day (June 21);
- (r) **"Certainty Provisions Agreement"** means the St'át'imc Certainty Provisions Agreement among the Province, BC Hydro and St'át'imc that is executed by all parties thereto and delivered as of the Effective Date;
- (s) **"Certificate of Public Convenience and Necessity"** means a certificate of public convenience and necessity required under section 45 of the *Utilities Commission Act, RSBC 1996, c-473*;

- (t) **"Cheakamus Generation Facilities"** means:
- (i) BC Hydro's Daisy Lake Dam, Cloudburst Mountain power tunnel, Cheakamus Generating Station and BC Hydro's use of Daisy Lake as a Reservoir;
 - (ii) any works, operations, components and assets related or ancillary to those generation facilities referred to in Section (t)(i) of this definition; and
 - (iii) those generation facilities referred to in Sections (t)(i) and (t)(ii) of this definition, as the same may be installed, maintained, repaired, altered, upgraded, relocated, reconstructed or replaced at any time after the Effective Date whether or not the installation, maintenance, repair, alteration, upgrade, relocation, reconstruction or replacement results in a change in the capacity, energy output or efficiency of those facilities;
- but excluding in all circumstances any New Facilities;
- (u) **"Cheakamus Water Licences"** means the Water Licences relating to the Cheakamus Generation Facilities;
- (v) **"Cheakamus WUP"** means the Cheakamus Project Water Use Plan dated October 1, 2005 and approved by the Comptroller pursuant to the Cheakamus WUP Order, and:
- (i) any amendments to or renewals or replacements of the Cheakamus WUP from time to time, provided such amendments, renewals or replacements do not result in a change in the terms and conditions of the Cheakamus WUP that would allow BC Hydro to operate the Cheakamus Generation Facilities in a materially different manner from the Cheakamus WUP and Cheakamus Water Licences; and
 - (ii) any amendments to or renewals or replacements of the Cheakamus WUP that result in a change in the terms and conditions of the Cheakamus WUP that would allow BC Hydro to operate the Cheakamus Generation Facilities in a materially different manner from the Cheakamus WUP and Cheakamus Water Licenses, provided that such amendments, renewals or replacements are agreed to in writing by BC Hydro and Lil'wat;
- (w) **"Cheakamus WUP Order"** means the Order of the Comptroller dated February 17, 2006 approving the Cheakamus WUP;
- (x) **"Chief"** means, in respect to a Community, the Chief of that Community, duly elected in accordance with Lawful election procedures and in office at the relevant time;

- (y) **“Closure”** means, in respect to:
- (i) a Bridge-Seton Generation Facility referred to Section (l)(i) of the definition of Bridge-Seton Generation Facilities, the date on which such Bridge-Seton Generation Facility ceases to be used for the purpose of generating electricity at any of the Bridge-Seton Generation Facilities or is removed; or
 - (ii) a Cheakamus Generation Facility referred to Section (t)(i) of the definition of Cheakamus Generation Facilities, the date on which such Cheakamus Generation Facility ceases to be used for the purpose of generating electricity at any of the Cheakamus Generation Facilities or is removed; or
 - (iii) a transmission facility (including a substation) in the Territory having a rating of 60kv or higher, the date on which such transmission facility is removed from a transmission line easement or right of way (or in the case of a substation, from the property upon which the substation is located) without replacement with another transmission facility within the same easement or right of way (or in the case of a substation, on the same property);

provided that, for greater certainty, the temporary non-use or removal of a Bridge-Seton Generation Facility, a Cheakamus Generation Facility, a transmission facility or particular components or parts of a Bridge-Seton Generation Facility, a Cheakamus Generation Facility or transmission facility, all or any of which are for the purposes of maintenance, repair, alteration, upgrade, relocation, reconstruction or replacement shall not be considered a “Closure” and the word “Closed” shall have a corresponding meaning. For greater certainty, the definition of “Closure” is limited to the Facilities listed in (y)(i), (y)(ii) and (y)(iii);

- (z) **“Commercial Arbitration Act”** means the *Commercial Arbitration Act, R.S.B.C., 1996, c. 55*;
- (aa) **“Community”** means any one of Lil’wat, N’Quatqua, Samahquam, Sekw’elw’as, Skatin, T’it’q’et, Tsal’álh, Ts’kw’aylaxw, Xaxli’p, Xa’xtsa and Xwisten, as the context requires, and **“Communities”** means any two or more of them, as the context requires;
- (bb) **“Community Band List”** means, in respect to a Community, the “Band List” of that Community, as defined in subsection 2(1) of the *Indian Act*;
- (cc) **“Community Members”** means in respect to a Community:
- (i) all past, present and future individuals who are or who are entitled to be a ‘member of a band’ of such Community within the meaning of subsection 2(1) of the *Indian Act*; and

- (ii) all past, present and future individuals:
 - (A) who have ancestors that shared the same language, culture and traditions;
 - (B) who by custom or tradition are a member of such Community (including those who are adopted by law or custom); and
 - (C) who are eligible to exercise aboriginal title or practice aboriginal rights, or exercise future treaty rights, within the Territory as aboriginal people pursuant to subsection 35(1) of the *Constitution Act, 1982*;

and includes the heirs, legal representatives or successors of each of the individuals referred to in Sections (cc)(i) or (cc)(ii) of this definition and "**Community Member**" means any one of the Community Members, as the context requires;

- (dd) "**Community Settlement Agreement**" means any one of the community settlement agreements among BC Hydro, the Province and each of the Communities that is executed by all parties thereto and delivered as of the Effective Date, and includes any lawful possessor agreements contemplated thereby, and "**Community Settlement Agreements**" means any two or more of them, as the context requires;
- (ee) "**Comptroller**" means the "comptroller" as defined under the *Water Act, R.S.B.C. 1996, c.483*;
- (ff) "**CPI**" means, at a particular date, the most recently published All-Items Consumer Price Index for British Columbia as published by Statistics Canada or such successor index as may replace same, or, if no such index or successor index exists, then the most comparable index appropriately adjusted;
- (gg) "**CPI Adjusted**" means adjusted by the percentage change in the CPI for the indicated period;
- (hh) "**Default**" has the meaning ascribed to that term in the Default Section;
- (ii) "**Default Section**" means the Article or Section of this Agreement entitled "DEFAULT";
- (jj) "**Defaulting Party**" has the meaning ascribed to that term in the Default Section;
- (kk) "**Dispute**" means any dispute, difference or disagreement between the Parties (other than the Province) arising out of the interpretation,

implementation or application of this Agreement in which a Notice of a Dispute is given in the manner set out in the Dispute Resolution Section, and "**Disputes**" means any two or more of them, as the context requires;

- (ll) "**Dispute Notice**" has the meaning ascribed to that term in the Dispute Resolution Section;
- (mm) "**Dispute Resolution Process**" means the process for resolving Disputes amongst the Disputing Parties as set out in the Dispute Resolution Section;
- (nn) "**Dispute Resolution Section**" means the Article or Section of this Agreement entitled "DISPUTE RESOLUTION";
- (oo) "**Disputing Parties**" means two or more Parties (other than the Province) that are subject to a Dispute and "**Disputing Party**" means one of them, as the context requires;
- (pp) "**Effective Date**" means May 10, 2011;
- (qq) "**Electricity Business**" means the businesses carried on by or on behalf of BC Hydro in the Territory from time to time regarding the generation, transmission or distribution of electricity, including the management, operations and communications relating thereto;
- (rr) "**Emergency**" means, in relation to the Facilities, an unforeseen or unpredictable combination of circumstances or the state resulting from such unforeseen or unpredictable combination of circumstances which poses a material risk to:
 - (i) the health, safety or welfare of people;
 - (ii) real property or tangible property; or
 - (iii) the Facilities or the operation thereof by BC Hydro; andthe time by which a response is required to avoid, lessen or otherwise manage such event, situation or risk is imminent;
- (ss) "**Event of Force Majeure**" means:
 - (i) acts of war (whether war be declared or not), acts of the public enemy, or acts of foreign enemies;
 - (ii) public disorders, insurrection, rebellion, revolution, terrorist acts, sabotage, riots or violent demonstrations or any other protests against political actions;

- (iii) explosions, fires or floods which are caused by events beyond the reasonable control of BC Hydro;
- (iv) earthquakes or other natural calamities or acts of God;
- (v) any unlawful or lawful strikes or other industrial labour actions or disruptions:
 - (A) by BC Hydro's employees against BC Hydro;
 - (B) by St'át'imc Authority's employees against the St'át'imc Authority;
 - (C) for the purposes of the Lil'wat Settlement Agreement only, by Lil'wat's employees against Lil'wat; or
 - (D) which have national, provincial or regional application; lasting for more than 7 consecutive calendar days and affecting the performance of the obligations under this Agreement or lockouts against such employees, lasting for more than 7 consecutive calendar days and affecting the performance of the obligations under this Agreement;
- (vi) any action or failure to act within a reasonable time without justifiable cause by any federal or provincial governmental authority, its employees or agents, including the denial of or delay in granting any land tenure, licence, lease, consent, approval or right, upon due application and diligent effort by the Affected Party to obtain same, or the failure once granted to remain (without justifiable cause) in full force and effect or to be renewed on substantially similar terms;
- (vii) protests and other civil disobedience or disturbance as long as they were not reasonably foreseeable and the effects could not have been reasonably avoided by the Affected Party;
- (viii) endemics, epidemics or pandemics;
- (ix) injunctions not caused by any breach of this Agreement by an Affected Party; and
- (x) any other event or circumstance or combination of events and circumstances which occurs and:
 - (A) is unforeseen by, beyond the control of and occurs without the fault or negligence of the Affected Party;

- (B) causes delay in, or prevention of, the performance by the Affected Party of any of its obligations under this Agreement; and
- (C) cannot be prevented, overcome or remedied by the exercise by the Affected Party of prudent and reasonable care and diligence or the expenditure of a reasonable sum of money;

but does not include wet or otherwise inclement weather;

(tt) **"Facilities"** means:

- (i) any and all generation, transmission, distribution and communication facilities, dams, works, structures, substations, town sites, generating stations, reservoirs and related or ancillary works, operations, components and assets owned or operated by, or on behalf of, BC Hydro in the Territory and used or held for use in connection with the Electricity Business existing as of the Effective Date, including those facilities existing as of the Effective Date which are listed in Schedule 2 to the Certainty Provisions Agreement;
- (ii) the New Transmission Line as such facilities exist upon initial commencement of their operation;
- (iii) the Relocated 60L020 Line as such facilities exist upon initial commencement of their operation;
- (iv) the Grid Connection Works;
- (v) those facilities referred to in Sections (tt)(i), (tt)(ii), (tt)(iii) and (tt)(iv) of this definition, as the same may be installed, maintained, repaired, altered, upgraded, relocated (within rights of way or easements existing as of the Effective Date or in the case of the New Transmission Line or the Relocated 60L020 Line within rights of way or easements existing as of the date of initial commencement of their operation), extended (in the case of distribution lines or works only), reconstructed or replaced at any time after the Effective Date whether or not the installation, maintenance, repair, alteration, upgrade, relocation, reconstruction or replacement results in a change in the capacity, energy output or efficiency of those facilities;

but excluding in all circumstances any New Facilities;

(uu) **"Footprint Impacts"** means past, present and future impacts on aboriginal title or rights or future treaty rights arising from the existence, planning, acquisition of the rights for, authorization, access to, or the design,

development, construction, operation, maintenance, repair, alteration, upgrade, closure or removal (other than a Closure) or replacement of the Facilities;

- (vv) **“Future Bridge River Water Use Planning”** has the meaning ascribed to that term in Section 4.5(a) of the Certainty Provisions Agreement;
- (ww) **“Future Cheakamus Water Use Planning”** has the meaning ascribed to that term in Section 4.5(b) of the Certainty Provisions Agreement;
- (xx) **“Government of Canada”** means Her Majesty the Queen in Right of Canada and includes her ministries, officials, servants and agents;
- (yy) **“Grid Connection Agreement”** means the Grid Connection Agreement dated October 9, 2009 entered into by BC Hydro and the Lower Stl'atl'imx Tribal Council, Skatin, Xa'xtsa and Samahquam;
- (zz) **“Grid Connection Works”** means the distribution works, substations and other works constructed and installed by or on behalf of BC Hydro or BCTC pursuant to or in connection with the Grid Connection Agreement;
- (aaa) **“Indian Act”** means the *Indian Act*, R.S.C. 1985, c. I-5;
- (bbb) **“Intended Recipient”** has the meaning ascribed to that term in Set-Off Section;
- (ccc) **“Interest Rate”** means the variable nominal interest rate per annum being the prime interest rate of the Canadian Imperial Bank of Commerce (or its successor, or if there is no successor, another Canadian chartered bank agreed to by the Parties) for Canadian dollar commercial loans in Canada as publicly declared by the bank from time to time as its “prime rate”;
- (ddd) **“Law”** means, in respect of any Party, any law (including common law), statute, ordinance, rule, regulation, treaty, restriction, regulatory policy, practice, guideline, standard, code, by-law or order to the extent it has the force of law and applies in whole or in part to such Party, and **“Lawful”** means that which is permitted by Law;
- (eee) **“Lil'wat”** means the Mount Currie Indian Band (also known as the Lil'wat Nation), a ‘band’ as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Lil'wat includes any organization or government that is a Lawful successor to such Community;
- (fff) **“Lil'wat's Area of Interest”** has the meaning ascribed to that term in the Relations Agreement;

- (ggg) **“Lil’wat Settlement Agreement”** means the Lil’wat Settlement Agreement among the Province, BC Hydro and Lil’wat that is executed by all parties thereto and delivered as of the Effective Date;
- (hhh) **“Lower Stl’atl’imx Tribal Council”** means a society incorporated under the laws of British Columbia;
- (iii) **“Material Closure of Bridge-Seton Generation Facilities”** means the Closure of one or more Bridge-Seton Generation Facilities referred to in Section (l)(i) of the definition of Bridge-Seton Generation Facilities which results in BC Hydro no longer being reasonably able to operate the remaining Bridge-Seton Generation Facilities in a manner consistent with the Bridge-Seton Operating Regime;
- (jjj) **“Members”** means the collective of all Community Members of all the Communities;
- (kkk) **“Negotiating Protocol”** means the negotiating protocol agreement between St’át’imc (therein referred to as Stl’atl’imx) and BC Hydro made as of November 1, 1993, as amended from time to time;
- (lll) **“New Authorization”** means a right, tenure, approval, permit, licence (including water licence), easement or right of way (including a transmission line easement or right of way), order and any other authorization that is proposed to be issued to, or on behalf of, BC Hydro in the Territory after the Effective Date in respect of generation or transmission facilities that are New Facilities;
- (mmm) **“New Facility”** means any of:
- (i) a new generation or transmission facility, work, or structure proposed to be constructed or installed in the Territory by or on behalf of BC Hydro at any time after the Effective Date and owned by BC Hydro which requires a new water licence or transmission line easement or right-of way or material amendment to any existing water licence or transmission line easement or right-of way held by BC Hydro, but excluding the New Transmission Line and Relocated 60L020 Line as such facilities exist upon initial commencement of their operation;
 - (ii) a new substation proposed to be constructed or installed in the Territory by or on behalf of BC Hydro at any time after the Effective Date and owned by BC Hydro;
 - (iii) an upgrade to or reconstruction or replacement of any of the existing generation or transmission Facilities which:
 - (A) results in:

- (I) a material increase in the permitted capacity, energy output or efficiency of such existing generation or transmission Facility; or
 - (II) a material decrease in the permitted capacity, energy output or efficiency of such existing generation or transmission Facility that may reasonably be expected to cause any material adverse impact on aboriginal title or rights or future treaty rights; and
- (B) requires BC Hydro to obtain at any time after the Effective Date a new water licence or transmission line easement or right-of-way or material amendment to any existing water licence or transmission line easement or right-of way held by BC Hydro;
- (iv) an upgrade to or reconstruction or replacement of the New Transmission Line subsequent to the initial commencement of its operation which:
 - (A) results in:
 - (I) a material increase in the permitted capacity, energy output or efficiency of the New Transmission Line; or
 - (II) a material decrease in the permitted capacity, energy output or efficiency of the New Transmission Line that may reasonably be expected to cause any material adverse impact on aboriginal title or rights or future treaty rights; and
 - (B) requires BC Hydro to obtain a new transmission line easement or right-of-way or material amendment to any then existing transmission line easement or right-of-way held by BC Hydro in respect of the New Transmission Line;
- (v) any other new facilities or works not related to the Electricity Business proposed to be constructed or installed in the Territory by or on behalf of BC Hydro at any time after the Effective Date; or
- (vi) any new additional transmission line proposed to be constructed or installed on the existing rights of way or easements for transmission lines 5L41, 2L01 and 2L02 adjacent to the existing transmission lines, but for greater certainty does not include a replacement, relocation or extension of the existing transmissions

lines (or replacements thereof) on such rights of way or easements unless such replacement or relocated transmission lines are otherwise a "New Facility" within the terms of Sections (mmm)(i) or (mmm)(iii) of this definition;

- (nnn) **"New TL Interested Communities"** means N'Quatqua, Tsal'álh, Xwisten, Ts'kw'aylaxw and Lil'wat;
- (ooo) **"New Transmission Line"** means the proposed new high-voltage bulk transmission circuit (including all transmission lines, conductors, circuits, rights-of-way, permits, poles, new station facilities and related communication infrastructure) from Kelly Lake Substation, near Ts'kw'aylaxw, to the Lower Mainland to be owned by BC Hydro which:
- (i) is expected to be rated up to a maximum of 500 kilovolts; and
 - (ii) will generally follow existing BC Hydro transmission circuit 5L42, subject to deviations from such route due to engineering, geotechnical, environmental, heritage, property tenure or other related considerations resulting from the New Transmission Line Process;
- but excluding in all circumstances any New Facilities;
- (ppp) **"New Transmission Line Process"** has the meaning ascribed to that term in Section 16.1 of the Relations Agreement;
- (qqq) **"Non-Defaulting Party"** and **"Non-Defaulting Parties"** have the meanings ascribed to those terms in the Default Section;
- (rrr) **"N'Quatqua"** means the St'át'imc Community which is also the N'Quatqua Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, N'Quatqua includes any organization or government that is a Lawful successor to such Community;
- (sss) **"Owing Party"** has the meaning ascribed to that term in the Set-Off Section;
- (ttt) **"Participating Community"** means N'Quatqua, Samahquam, Sekw'elw'as, Skatin, T'it'q'et, Tsal'álh, Ts'kw'aylaxw, Xaxli'p, Xa'xtsa and Xwisten as the context requires, and **"Participating Communities"** means any two or more of them, as the context requires;
- (uuu) **"Parties"** means:

- (i) in the St'át'imc (PC) Settlement Agreement, any two or more of St'át'imc (PC), BC Hydro and the Province, as the context requires, and "**Party**" means any one of them;
 - (ii) in the Lil'wat Settlement Agreement, any two or more of Lil'wat, BC Hydro and the Province, as the context requires, and "**Party**" means any one of them;
 - (iii) in the Certainty Provisions Agreement, any two or more of St'át'imc, BC Hydro and the Province, as the context requires, and "**Party**" means any one of them; and
 - (iv) in the Relations Agreement, St'át'imc and BC Hydro and "**Party**" means any one of them;
- (vvv) "**Prejudiced Authorizations**" has the meaning ascribed to that term in Section 4.1 of the Certainty Provisions Agreement;
- (www) "**Principal**" means:
- (i) with respect to St'át'imc or St'át'imc (PC), the Executive Director of the St'át'imc Authority or equivalent senior representative of the St'át'imc Authority;
 - (ii) with respect to Lil'wat and for the purposes of the Lil'wat Settlement Agreement only, Lil'wat's Senior Administrator or equivalent; and
 - (iii) with respect to BC Hydro, the Director of Aboriginal Relations and Negotiations or equivalent;
- (xxx) "**Proceeding**" means:
- (i) any action, cause of action, injunction, suit, claim, specific claim, demand, trial, hearing or other process or proceeding before any court, board, commission, tribunal or other judicial, quasi-judicial or administrative body or statutory decision maker, including any administrative or public consultative process (including any water use planning process); or
 - (ii) an organized public relations campaign;
- but, for greater certainty, excludes:
- (iii) land claims negotiations or any other negotiations the outcome of which is dependent on the agreement or approval of either or both BC Hydro and the Province;

- (iv) the participation by St'át'imc and the NTL Interested Communities in the New Transmission Line Process;
 - (v) the participation by St'át'imc or Lil'wat in future water use planning in accordance with Section 4.5 of the Certainty Provisions Agreement;
 - (vi) the participation by a Community or St'át'imc in any processes regarding New Facilities as contemplated by the Relations Agreement;
 - (vii) the participation by a Community or St'át'imc in any processes regarding Closures as contemplated by the Relations Agreement; and
 - (viii) the participation by a Community or St'át'imc in any dispute regarding the interpretation of any provision of this Agreement or any of the Settlement Documents to which it is a party;
- (yyy) **"Program Payments"** has the meaning ascribed to that term in the St'át'imc (PC) Settlement Agreement;
- (zzz) **"Province"** means Her Majesty the Queen in right of the Province of British Columbia, but excluding BC Hydro and BCTC;
- (aaaa) **"Ratification Agreement"** means the St'át'imc Ratification Agreement dated December 17, 2010 entered into by BC Hydro, the Province and St'át'imc;
- (bbbb) **"Relations Agreement"** means the Relations Agreement between BC Hydro and St'át'imc that is executed by all parties thereto and delivered as of the Effective Date;
- (cccc) **"Released Claims"** means the claims and other matters that are subject to the releases granted by St'át'imc pursuant to Section 3.1 of the Certainty Provisions Agreement;
- (dddd) **"Releasees"** means:
- (i) BC Hydro and its predecessors, and their past, present and future subsidiaries, and their respective directors, officers, employees, servants, agents, contractors, subcontractors and shareholders;
 - (ii) BCTC and its past, present and future directors, officers, employees, servants, agents, contractors, subcontractors and shareholders; and

- (iii) the Province and its past, present and future ministers, officials, servants, employees, agents, contractors, subcontractors and legal representatives;
- (eeee) "**Releasors**" means St'át'imc, including each of the Communities, the Community Members and Members, and each of their respective representatives, beneficiaries, successors, assigns, agents and personal representatives;
- (ffff) "**Relocated 60L020 Line**" means the transmission line resulting from the relocation of a portion of the existing 60L020 transmission line in the manner contemplated by Section 7 of the St'át'imc (PC) Settlement Agreement;
- (gggg) "**Samahquam**" means the St'át'imc Community which is also the Samahquam Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Samahquam includes any organization or government that is a Lawful successor to such Community;
- (hhhh) "**SDM Process**" means a structured decision making process which engages multiple parties in a decision making process which gathers and considers both facts and values in order to evaluate objectives and alternatives with the goal of making consensus decisions, as more fully set out in Schedule 6 of the St'át'imc (PC) Settlement Agreement;
- (iiii) "**Sekw'elw'as**" means the St'át'imc Community which is also the Cayoose Creek Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Sekw'elw'as includes any organization or government that is a Lawful successor to such Community;
- (jjjj) "**Set-Off Section**" means the Section of this Agreement entitled "Set-Off";
- (kkkk) "**Seton Generating Station**" means BC Hydro's hydro-electric generating station located on the Fraser River south of the confluence of Seton River;
- (llll) "**Settlement Agreements**" means the St'át'imc (PC) Settlement Agreement and the Lil'wat Settlement Agreement;
- (mmmm) "**Settlement Documents**" means the Ratification Agreement, the Settlement Agreements, the Certainty Provisions Agreement, the Relations Agreement, the Community Settlement Agreements and the Grid Connection Agreement;

- (nnnn) **"Skatin"** means the St'át'imc Community which is also the Skatin Nations Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Skatin includes any organization or government that is a Lawful successor to such Community;
- (oooo) **"Stage 1 Dispute Period"** has the meaning ascribed to that term in the Dispute Resolution Section;
- (pppp) **"St'át'imc"** means for the purposes of this Agreement:
- (i) all of the Communities, representing themselves and each of their Community Members; and
 - (ii) the St'át'imc Authority, representing the Members;
- (qqqq) **"St'át'imc Authority"** means, for the purposes of this Agreement, at the relevant date:
- (i) until delivery to BC Hydro and the Province of a St'át'imc Authority Change Notice, the St'át'imc Chiefs Council; or
 - (ii) upon delivery to BC Hydro and the Province of a St'át'imc Authority Change Notice, the party or parties designated in the St'át'imc Authority Change Notice as having the authority to represent and bind St'át'imc for the purposes of this Agreement;
- (rrrr) **"St'át'imc Authority Change Notice"** means a notice in writing delivered to BC Hydro and the Province on behalf of St'át'imc advising of a change in the St'át'imc Authority for the purposes of this Agreement that is signed by not less than ten (10) of the eleven (11) Communities;
- (ssss) **"St'át'imc Chiefs Council"** means at the relevant date the then existing council of the St'át'imc comprised of the Chief of each Community or other designated representative;
- (tttt) **"St'át'imc Conditions"** has the meaning ascribed to it in the St'át'imc (PC) Settlement Agreement;
- (uuuu) **"St'át'imc (PC)"** means the Participating Communities, representing themselves and each of their Community Members;
- (vvvv) **"St'át'imc (PC) Settlement Agreement"** means the St'át'imc (PC) Settlement Agreement that is executed by all parties thereto and delivered as of the Effective Date;

(www) **"Steering Committee"** means the committee established by BC Hydro and St'át'imc pursuant to the Relations Agreement;

(xxxx) **"Territory"** means:

- (i) the geographical area outlined in the map attached as Schedule 3 to the Certainty Provisions Agreement; and
- (ii) any additional geographic area that may be claimed from time to time by St'át'imc or any one or more Communities or a collective of Community Members as Lawful title or rights holders for the exercise of aboriginal title, practice of aboriginal rights or exercise of future treaty rights pursuant to subsection 35(1) of the *Constitution Act, 1982*.

For greater certainty, nothing in this definition authorizes or acknowledges a right of Community Members or a collective of Community Members to claim additional Territory;

(yyyy) **"T'it'q'et"** means the St'át'imc Community which is also the T'it'q'et Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, T'it'q'et includes any organization or government that is a Lawful successor to such Community;

(zzzz) **"Trust"** has the meaning ascribed to that term in the St'át'imc (PC) Settlement Agreement;

(aaaa) **"Tsal'álh"** means the St'át'imc Community which is also the Seton Lake Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Tsal'álh includes any organization or government that is a Lawful successor to such Community;

(bbbb) **"Ts'kw'aylaxw"** means the St'át'imc Community which is also the Ts'kw'aylaxw First Nation, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Ts'kw'aylaxw includes any organization or government that is a Lawful successor to such Community;

(cccc) **"Unusual Hydrologic Event"** means an inflow hydrology sequence that is outside the normal range of hydrologic conditions for the Bridge-Seton Watershed and which makes it unlikely that BC Hydro will be able to operate the Bridge-Seton Generation Facilities in a manner that is consistent with the Bridge-Seton Operating Regime during the unusual hydrologic event;

- (dddd) **"Water Licences"** means any water licence in relation to the Bridge-Seton Generation Facilities or the Cheakamus Generation Facilities held by or on behalf of BC Hydro as of the Effective Date (including those water licences listed in Schedule 4 to the Certainty Provisions Agreement) or in the future, including any renewals, amendments or changes made thereto after the Effective Date, but excluding New Authorizations;
- (eeee) **"Xaxli'p"** means the St'át'imc Community which is also the Xaxli'p Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Xaxli'p includes any organization or government that is a Lawful successor to such Community;
- (ffff) **"Xa'xtsa"** means the St'át'imc Community which is also the Douglas Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Xa'xtsa includes any organization or government that is a Lawful successor to such Community;
- (gggg) **"Xwisten"** means the St'át'imc Community which is also the Bridge River Indian Band, a 'band' as defined under the *Indian Act*, representing itself and all of its Community Members and acting through its Band Council; and for greater certainty, Xwisten includes any organization or government that is a Lawful successor to such Community; and
- (hhhh) **"1998 MOU"** means the memorandum of understanding dated July 30, 1998 between Stl'atl'imx Nation Hydro Committee and BC Hydro, as amended from time to time.

SCHEDULE 2
ST'ÁT'IMC CERTAINTY PROVISIONS AGREEMENT

See attached.

ST'ÁT'IMC CERTAINTY PROVISIONS AGREEMENT
AMONGST
ST'ÁT'IMC
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
AND
HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA

May 10, 2011

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ST'ÁT'IMC CERTAINTY PROVISIONS AGREEMENT

THIS AGREEMENT is made as of the 10th day of May, 2011,

AMONG:

ST'ÁT'IMC

AND:

BRITISH COLUMBIA HYDRO AND POWER

AUTHORITY, a crown corporation continued under the *Hydro and Power Authority Act*, having its registered and records office at 333 Dunsmuir Street, Vancouver, British Columbia

AND:

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA**

BACKGROUND:

- A. St'át'imc, the Province and BC Hydro have agreed to utilize two Settlement Agreements (the St'át'imc (PC) Settlement Agreement and the Lil'wat Settlement Agreement), together with the other Settlement Documents, to settle, as set out therein, all past, present and future impacts, grievances and claims of St'át'imc relating to the Facilities and their continued operations;
- B. St'át'imc, BC Hydro and the Province intend through the Settlement Documents to:
- (1) create certainty for all such parties regarding BC Hydro's continued operation of the Facilities in the Territory by addressing past grievances, taking steps to mitigate impacts and creating a relationship founded on mutual respect, recognition and understanding; and
 - (2) assist in developing collaborative working relationships relating to the Facilities and their continued operations, including encouraging business and economic opportunities between BC Hydro and St'át'imc; and
- C. The St'át'imc Chiefs Council is the St'át'imc authority that currently represents the Communities on certain aboriginal title and right matters, including certain matters related to the Facilities.

NOW THEREFORE IN CONSIDERATION for \$1.00 now paid by each of the Province and BC Hydro to St'át'imc and to each of the Communities and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties), the Parties agree with each other as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** In this Agreement, including the recitals/preamble, the words, phrases and expressions set out in Schedule 1 shall have the meanings given to them therein.

1.2 **Application to St'át'imc.**

- (a) Each reference to "St'át'imc" in this Agreement includes a reference to all of the Communities and each of the representations, covenants, indemnities, obligations, acknowledgements and other agreements whatsoever of St'át'imc under this Agreement are applicable to all the Communities jointly (but not severally). The Communities shall be jointly liable to BC Hydro and the Province with respect to such covenants, indemnities, obligations, acknowledgements and other agreements.
- (b) Except as otherwise specifically provided in this Agreement, each of the Communities hereby expressly authorizes the St'át'imc Authority to act on its behalf in connection with this Agreement and the transactions contemplated hereby. All decisions and actions (including the execution of any documents) made and taken by the St'át'imc Authority in connection with this Agreement and the transactions contemplated hereby shall be binding upon all of the Communities jointly (but not severally). BC Hydro and the Province shall be entitled to rely conclusively on the decisions made by and actions of the St'át'imc Authority in connection with this Agreement and the transactions contemplated hereby and shall have no liability to one or more of the Communities in respect thereof to the extent they have relied upon such authority.
- (c) Each of the acknowledgements, covenants, representations and obligations of BC Hydro and the Province under this Agreement in favour of St'át'imc and any other rights or benefits of St'át'imc under this Agreement may only be enforced or exercised by St'át'imc, as represented by the St'át'imc Authority, and, without limiting the foregoing, except as specifically provided in this Agreement, none of the Communities shall separately be entitled to take any action to enforce or exercise such acknowledgements, covenants, representations, obligations, rights or benefits.
- (d) St'át'imc (including Lil'wat and each of the Participating Communities) acknowledge and agree with BC Hydro and the Province that:
 - (i) the Participating Communities and Lil'wat have made certain assertions regarding their aboriginal title and rights within the Territory and the body that is authorized to represent them with respect to aboriginal title and rights matters, including matters related to the Facilities; and
 - (ii) it is the intention of the Parties that each of the Communities, their Community Members, the Members and the St'át'imc Authority will be bound by the terms of this Agreement and the Relations Agreement, regardless of which group or subgroup of Members is determined to be the

collective that are eligible to exercise aboriginal title or practice aboriginal rights or exercise future treaty rights within the Territory as aboriginal people pursuant to subsection 35(1) of the *Constitution Act, 1982* and regardless of which body is determined to represent such individuals or collectives in respect of such matters.

- 1.3 **Application to BC Hydro.** To the extent that BC Hydro delegates or subcontracts the performance of any of its covenants or obligations under this Agreement to its subsidiaries, contractors, subcontractors, agents or other third parties, BC Hydro shall be responsible for ensuring that such third parties satisfy such covenants and obligations.
- 1.4 **No Wrongdoing.** It is expressly understood and agreed by the Parties that the terms and conditions contained in this Agreement do not, and will not, constitute an admission of wrongdoing or liability on the part of BC Hydro or the Province.
- 1.5 **No Restriction.** Subject to the terms and conditions of this Agreement, St'át'imc or any one or more Communities will not be precluded from asserting or claiming, in a court of law or otherwise, aboriginal title, aboriginal rights or future treaty rights to the water, land and other resources of the Territory.
- 1.6 **Non-Derogation.** Nothing in this Agreement (including any releases, indemnities, acknowledgements or covenants) shall be construed by anyone so as to:
 - (a) extinguish or, except as expressly provided in this Agreement (including the releases), limit any aboriginal title, rights or responsibilities or future treaty rights which are held or may be held by any one or more Communities or St'át'imc, regardless of whether such title, rights or responsibilities are recognized, established or defined before the completion of this Agreement;
 - (b) constitute or be evidence of the nature and extent of aboriginal title, rights or responsibilities, ownership or jurisdiction or future treaty rights which are held or may be held by any one or more Communities or St'át'imc including their laws, customs or traditions;
 - (c) constitute or be evidence of the boundary of the geographical area over which any one or more Communities or St'át'imc claim aboriginal title, rights and responsibilities or the nature, scope or extent thereof;
 - (d) constitute or be evidence of an admission by any one or more Communities or St'át'imc of the nature and extent of title, rights, ownership or jurisdiction which are held or may be held by the Province within the Territory;
 - (e) impact, extinguish, infringe, limit, define or in any way affect aboriginal title, rights or responsibilities or treaty rights which are held or may be held by any aboriginal people(s) other than the Communities or St'át'imc, regardless of whether such title, rights or responsibilities are recognized, established or defined before the completion of this Agreement; or

(f) constitute admissions of fact of any Party.

1.7 **Limitation of Agreement.** It is expressly understood and agreed by the Parties that this Agreement is not a treaty or land claims agreement within the meaning of section 25 and 35 of the *Constitution Act*, 1982 and does not define, recognize or affirm any asserted or existing aboriginal title and rights or future treaty rights.

1.8 **Interpretation.** Unless the context otherwise expressly requires, in this Agreement:

- (a) the singular includes the plural and conversely;
- (b) a gender includes all genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person (including a Party) includes an individual, company, other body corporate, association, partnership, firm, joint venture or trust;
- (e) a reference to a body or official, other than a Party whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body or official;is a reference to the body or official which replaces it or which substantially succeeds to its powers or functions;
- (f) a reference to a section, schedule or annexure is a reference to a section of or a schedule or annexure to this Agreement;
- (g) a reference to any Party includes that Party's successors and permitted assigns;
- (h) a reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced except to the extent prohibited by this Agreement or that other agreement or document;
- (i) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation, code, by-law, ordinance or statutory instrument issued under it;
- (j) a reference to writing includes a facsimile or electronic mail transmission and any means of reproducing words in a tangible and permanently visible form;
- (k) a reference to "\$" is to the currency of Canada;
- (l) the word "**including**" means "**including without limitation**" and "**include**" and, "**includes**" will be construed similarly;

- (m) headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation;
- (n) a provision of this Agreement must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement;
- (o) there will be no presumption in law or in equity that any ambiguous or doubtful expression is to be resolved in favour of any particular Party;
- (p) in the calculation of time under this Agreement, all references to "**days**" are to calendar days, except that if the time for doing an act falls or expires on a day that is not a Business Day, the time is extended to the next Business Day; and
- (q) a person "controls" another person if that person directly or indirectly possesses the power to direct or cause the direction of the management and policies of that other person, whether through ownership or voting of securities, by contract or otherwise and "controlled by" and "under common control with" have similar meanings.

1.9 **Schedules.** Each of the following schedules shall be attached to and form part of this Agreement:

Schedule 1 - Common Definitions

Schedule 2 - Facilities

Schedule 3 - Territory Map

Schedule 4 - Water Licences

Schedule 5 - Bridge River Water Use Planning Map

Schedule 6 - Cheakamus Water Use Planning Map

2. REPRESENTATIONS, WARRANTIES AND COVENANTS

2.1 **Representations and Warranties of St'át'imc.** St'át'imc warrants and represents to BC Hydro and the Province that:

- (a) the St'át'imc Authority has for the purposes of this Agreement the legal power, capacity and authority to enter into this Agreement for and on behalf of the Members;
- (b) this Agreement is a valid and legally binding obligation of the St'át'imc Authority for and on behalf of the Members;

- (c) the St'át'imc Authority has taken all necessary actions and obtained all necessary approvals to enter into this Agreement for and on behalf of the Members and carry out its obligations under this Agreement;
- (d) all of the representations and warranties made by the St'át'imc Authority under the Ratification Agreement are true and correct as of the date hereof and all the covenants and obligations to be performed or satisfied by the St'át'imc Authority on behalf of the Members under the Ratification Agreement have been performed or satisfied in accordance with the terms of the Ratification Agreement in all material respects;
- (e) all aboriginal people who are St'át'imc and as such are eligible to exercise aboriginal title or practice aboriginal rights or future treaty rights are Community Members of a Community; and
- (f) the St'át'imc Authority has not assigned, in any manner whatsoever, any right or interest in any of the Released Claims which is capable of Lawfully being assigned.

2.2 Representations and Warranties of each Community. Each Community warrants and represents to BC Hydro and the Province that:

- (a) its Band Council is a duly constituted band council under the *Indian Act*;
- (b) it has the legal power, capacity and authority to enter into this Agreement for and on behalf of itself and its Community Members and to carry out its obligations under this Agreement;
- (c) this Agreement is a valid and legally binding obligation of such Community and its Community Members;
- (d) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement for and on behalf of its Community Members and carry out its obligations under this Agreement, including authorizing the St'át'imc Authority to represent it in the manner contemplated by this Agreement;
- (e) all of the representations and warranties made by such Community under the Ratification Agreement are true and correct as of the date hereof and all the covenants and obligations to be performed or satisfied by such Community under the Ratification Agreement have been performed or satisfied in accordance with the terms of the Ratification Agreement in all material respects; and
- (f) it has not assigned, in any manner whatsoever, any right or interest in any of the Released Claims which is capable of Lawfully being assigned.

2.3 Representations and Warranties of BC Hydro. BC Hydro warrants and represents to St'át'imc and the Province that:

- (a) it has the legal power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement;
- (b) this Agreement is a valid and legally binding obligation of BC Hydro;
- (c) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement and carry out its obligations under this Agreement;
- (d) it has disclosed in Schedule 4 all material Water Licences held by BC Hydro as of the Effective Date in respect of the Bridge-Seton Generation Facilities and the Cheakamus Generation Facilities;
- (e) to the best of its knowledge and belief, the information related to the Facilities and BC Hydro's operation of the Facilities that has been provided by BC Hydro to the St'át'imc pursuant to the Negotiating Protocol has been accurate information in all material respects; and
- (f) the rights of way or easements upon which transmission lines 5L41, 2L01 and 2L02 are located are the only transmission line rights of ways or easements held by or on behalf of BC Hydro in the Territory as of the Effective Date that could accommodate the installation of a second side by side transmission line based on the terms of such rights of way or easements and safety, engineering and design standards existing as of the Effective Date and applicable to such installation.

2.4 **Representations and Warranties of the Province.** The Province warrants and represents to BC Hydro and St'át'imc that:

- (a) it has the legal power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement;
- (b) this Agreement is a valid and legally binding obligation of the Province; and
- (c) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement and carry out its obligations under this Agreement.

2.5 **Survival of Representations and Warranties.** The representations and warranties of each of the Parties contained in this Article shall survive and continue in full force and effect indefinitely for the benefit of the other Parties.

2.6 **Reliance.** Each Party acknowledges and agrees that the other Parties have entered into this Agreement relying on the representations and warranties and other terms and conditions of this Agreement, notwithstanding any independent searches or investigations that have been or may be undertaken by or on behalf of such Party and that no information which is now known or should be known or which may hereafter become known to a Party or its professional advisors shall limit or estop that Party from seeking to enforce the Agreement in accordance with its terms.

2.7 **Covenants.** St'át'imc covenants and agrees with BC Hydro and the Province not to:

- (a) commence, advance, prosecute or continue against the Releasees or any of them any claim or other remedy with respect to any of the Released Claims;
- (b) encourage, commence, join, prosecute, assert, intervene in or support any Proceeding on its own behalf or on behalf of or in cooperation with any Community Member, person, group or entity, in which St'át'imc, any Community or such Community Member, person, group or entity takes the position that:
 - (i) any Authorization required for the Facilities is legally invalid;
 - (ii) the use of the Facilities is not within the scope of the Authorizations;
 - (iii) BC Hydro does not, for any reason, have the legal right to continue its authorized use of the Facilities; or
 - (iv) BC Hydro requires any further tenure, approval, permit, licence or other authorization to allow the authorized use of the Facilities;
- (c) interfere with any of the Facilities, including the planning, acquisition of the rights for, authorization, access to, or the design, development, construction, operation, maintenance, repair, alteration, upgrade, closure, removal or replacement of the Facilities;
- (d) oppose any of the Authorizations held or sought by BC Hydro in connection with the ownership or operation of any of the Facilities; and
- (e) without the express written consent of BC Hydro, attempt to restrict the ability of BC Hydro to operate the Bridge-Seton Generation Facilities in accordance with the Bridge-Seton Operating Regime or attempt to restrict the ability of BC Hydro to operate BC Hydro's Cheakamus Generation Facilities in accordance with the Cheakamus WUP and the Cheakamus Water Licences.

3. RELEASE AND INDEMNITY

- 3.1 **Release.** Subject to Section 3.6, St'át'imc on behalf of the Releasers hereby releases and forever discharges each of the Releasees of and from all manner of past, present and future claims of the Releasers pertaining to the Facilities (including the planning, acquisition of the rights for, authorization, access to, or the design, development, construction, operation, maintenance, repair, alteration, upgrade, closure, removal or replacement of any of the Facilities), including any and all liabilities, rights, obligations, manner of actions, causes of action, suits, debts, dues, sums of money (including fees for operation of the Facilities), claims and demands of any nature or any kind or description whatsoever, whether arising out of statute law, the common law or equity or out of laws relating to the infringement of aboriginal title or rights, whether known or unknown as of the Effective Date, arising out of, related to or based upon, in whole or in part, any and all issues, proceedings or grievances of any nature or kind that any of the Releasers may have had in the past, have at the present time or may have in the future against any of the

Releasees in relation to any of the Facilities, but excluding in all circumstances the following:

- (a) any claims related to breaches by BC Hydro or the Province of this Agreement or any other agreement amongst the Parties, or a decision, order, award or agreed resolution under the Dispute Resolution Process;
- (b) any claims related to breaches by BC Hydro or the Province of the Settlement Agreements, the Relations Agreement or any other agreement amongst St'at'imc (or any one or more Communities) and BC Hydro and/or the Province, or a decision, order, award or agreed resolution under the dispute resolution process provided for under the Settlement Agreements, the Relations Agreement or such other agreement;
- (c) any claims for adverse effects on the human health of a Community Member caused or contributed to by the Facilities as a result of:
 - (i) electric magnetic fields;
 - (ii) electricity; or
 - (iii) another mechanism that is unknown or unforeseeable as of the Effective Date and not capable of discernment with due diligence;

provided however that it is hereby acknowledged and agreed by the Parties that the exception provided for in this Section 3.1(c) does not constitute, nor shall it be construed to be, an admission or acknowledgement on the part of BC Hydro or the Province that there are any adverse effects on human health resulting from electric magnetic fields or the generation, transmission or distribution of electricity;

- (d) claims for past, present or future infringement of claimed, existing or future, aboriginal title or rights or treaty rights, to the extent that the infringement alleged is not the result of, or would have existed in any event of, the Footprint Impacts;
- (e) claims by any Community Member for personal injury or wrongful death caused by or attributable to the Facilities or any activities of any Releasee in the Territory;
- (f) claims in respect of any employment or engagement as a contractor or subcontractor with the Province, BC Hydro or BCTC or their agents or contractors, or the termination thereof; and
- (g) claims against BC Hydro for damages to property and damages resulting therefrom that is incremental to the Footprint Impacts and arising from:
 - (i) negligent acts or omissions or wilful misconduct occurring after the Effective Date on the part of BC Hydro and its employees, servants,

agents, contractors and sub-contractors in respect of the operation and maintenance of the Facilities, other than the operation and maintenance of the Facilities in a manner consistent with this Agreement, the St'át'imc (PC) Settlement Agreement and the Relations Agreement;

- (ii) a trespass occurring after the Effective Date on the part of BC Hydro or its employees, servants, agents, contractors or sub-contractors over lands other than:
 - (A) lands on which the Facilities are situate; or
 - (B) lands which BC Hydro or its employees, servants, agents, contractors or sub-contractors are otherwise authorized to use under Authorizations or applicable Law; or
- (iii) a breach occurring after the Effective Date by BC Hydro of an obligation under a statute applicable to BC Hydro to the extent a Community Member or a Community is Lawfully entitled under such statute to enforce or make claims in respect of such a breach.

3.2 St'át'imc Indemnity and Support.

- (a) St'át'imc will, upon demand by BC Hydro or the Province, indemnify and hold harmless each of the Releasees from and against all manner of all claims, obligations, liabilities, duties, losses, damages, costs or expenses whenever arising or incurred arising out of or resulting from, directly or indirectly:
 - (i) any:
 - (A) Proceeding commenced, joined, prosecuted, asserted, intervened in, or supported by St'át'imc or a Community, and
 - (B) Proceeding referred to in Section (xxx)(i) of the definition of Proceeding commenced, joined, prosecuted, asserted, intervened in, or supported by one or more Community Members;against any of the Releasees relating directly or indirectly to:
 - (C) the Released Claims (and for greater certainty, excluding the claims set out in Sections 3.1(a) to and including 3.1(g));
 - (D) claims in respect of the ratification of any of the Settlement Documents or any other process or procedure resulting in the execution of any of the Settlement Documents by the St'át'imc Authority or one or more Communities;
 - (ii) any misrepresentation or breach of warranty made by St'át'imc or a Community under Section 2; and

- (iii) any claims, actions or proceedings for contribution or indemnity brought against any of the Releasees by a third party, including the Government of Canada, in connection with a claim or proceeding commenced against such third party by any of the Releasers in respect of any matter which is the subject of the Released Claims.
 - (b) In the event that one or more Community Members engages in an organized public relations campaign relating directly or indirectly to any of the matters referred to in Sections 3.2(a)(i)(C) or 3.2(a)(i)(D), St'át'imc will use reasonable persuasive efforts to prevent, avoid, curtail or minimize such activities, including writing letters of support as may reasonably be requested by the Province or BC Hydro, provided however that the Province and BC Hydro acknowledge and agree that the St'át'imc will not be required to take legal proceedings to prevent a Community Member from engaging in such activities nor will the St'át'imc be responsible in damages for such activities. The Province and/or BC Hydro will give reasonable notice to the St'át'imc where such persuasion may be helpful.
- 3.3 **St'át'imc (PC) Indemnity.** St'át'imc (PC) will, upon demand by BC Hydro or the Province, indemnify and hold harmless each of the Releasees from and against all manner of all claims, obligations, liabilities, duties, losses, damages, costs or expenses whenever arising or incurred arising out of or resulting from, directly or indirectly, any:
- (a) claims arising from the selection, appointment or actions of the trustees of the Trust; and
 - (b) claims arising from any decisions of St'át'imc (PC) or a Participating Community or both regarding the deposit, withdrawal, distribution, management, use, administration, reporting or other dealing with respect to funds paid by BC Hydro or the Province pursuant to the St'át'imc (PC) Settlement Agreement, including any claims regarding a decision, act or nonfeasance of any of the trustees of the Trust.
- 3.4 **Lil'wat Indemnity.** Lil'wat will, upon demand by BC Hydro or the Province, indemnify and hold harmless each of the Releasees from and against all manner of all claims, obligations, liabilities, duties, losses, damages, costs or expenses whenever arising or incurred arising out of or resulting from, directly or indirectly, any claims arising from Lil'wat's decision to require BC Hydro to make a direct payment to Lil'wat rather than to pay all or part of such amount into a trust or the deposit, withdrawal, distribution, management, use, administration, reporting or other dealing with respect to funds paid by BC Hydro or the Province pursuant to the Lil'wat Settlement Agreement or the Lil'wat Community Settlement Agreement.
- 3.5 **Acknowledgements.** Subject to Section 3.6, St'át'imc acknowledges and agrees as follows:
- (a) any and all obligations of BC Hydro, BCTC and the Province or any of them, to consult with any of St'át'imc, any Community or the Community Members in

respect of their existing or asserted aboriginal title or rights or any future treaty rights, or to accommodate those existing or asserted aboriginal title or rights or future treaty rights arising directly or indirectly from, or pertaining to the Facilities (including for greater certainty, the Footprint Impacts and the acquisition by BC Hydro of the existing rights of way or easements for transmission lines 5L41, 2L01 and 2L02) are satisfied by this Agreement, the Settlement Agreements and the Relations Agreement and the performance by BC Hydro and the Province of their obligations thereunder;

- (b) any infringement of any aboriginal title or rights or any future treaty rights of any of St'át'imc, any Community or the Community Members arising directly or indirectly from, or pertaining to the Facilities (including for greater certainty, the Footprint Impacts and the acquisition by BC Hydro of the existing rights of way or easements for transmission lines 5L41, 2L01 and 2L02) has been accommodated by this Agreement, the Settlement Agreements and the Relations Agreement;
- (c) all the terms and conditions of this Agreement, including the releases, indemnities, acknowledgements and covenants, are binding upon the Parties despite any permitted transfer, assignment or disposition of any interest of BC Hydro or the Province or any change in the governance of St'át'imc;
- (d) the terms and conditions of this Agreement, the Settlement Agreements and the Relations Agreement are accepted voluntarily for the purpose of making full and final compromise, adjustment, settlement and satisfaction of all claims howsoever related to the Facilities;
- (e) all terms and conditions in this Agreement, the Settlement Agreements and the Relations Agreement, including the release provisions, will be, in all respects, enforceable and not subject to termination, rescission or variation by discovery of facts in connection with the matters covered under this Agreement that may be different than those known or believed to be true by St'át'imc, any Community or any Community Members as of the Effective Date; and
- (f) that releases are being concurrently granted by each of the Communities to BC Hydro and the Province under the Community Settlement Agreements that are being entered into by each of them concurrently herewith and nothing in those Community Settlement Agreements shall be construed to limit, diminish or otherwise derogate from the releases being granted by St'át'imc under this Agreement.

3.6 **Exceptions.** Sections 3.1, 3.2 and 3.5(a) do not apply to claims for any alleged failure by the Province or BC Hydro or another corporation owned or controlled, directly or indirectly, by the Province or BC Hydro to consult with St'át'imc or one or more Communities in respect of their existing or asserted aboriginal title or rights or future treaty rights, or to accommodate those existing or asserted aboriginal title or rights or future treaty rights, in relation to:

- (a) any New Facility;
- (b) any New Authorization;
- (c) any amendments to or renewals or replacements of the Bridge River WUP or other orders made after the Effective Date by the Comptroller in respect of the Bridge-Seton Generation Facilities from time to time that result in a change in the terms and conditions of the Bridge River WUP or other operating conditions that may allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime;
- (d) any amendments to or renewals or replacements of the Cheakamus WUP or other orders made after the Effective Date by the Comptroller in respect of BC Hydro's Cheakamus Generation Facilities from time to time that result in a change in the terms and conditions of the Cheakamus WUP Order or other operating conditions that may allow BC Hydro to operate its Cheakamus Generation Facilities in a materially different manner from the Cheakamus WUP and any Cheakamus Water Licences; or
- (e) any Closure.

The obligation of the Province and BC Hydro and any other corporation owned or controlled, directly or indirectly, by the Province or BC Hydro to consult with St'át'imc or one or more Communities in respect of their existing or asserted aboriginal title or rights or future treaty rights, or to accommodate those existing or asserted aboriginal title or rights or future treaty rights, in relation to any New Facility or any Closure shall be limited to those material impacts on their aboriginal title or rights or future treaty rights that are incremental or in addition to the Footprint Impacts. This Section 3.6 does not impose, create, or extend any legal obligation to St'át'imc or one or more community that BC Hydro or the Province or another corporation owned or controlled, directly or indirectly, by the Province or BC Hydro would not have in the absence of this Agreement.

4. FUTURE RELATIONS

4.1 Future Determinations. If, at any time after the Effective Date, by lawful agreement or by final determination of a court of competent jurisdiction, ownership and/or jurisdiction by St'át'imc or any Community over the Territory or any portion thereof, including the land and resources used by BC Hydro for the Facilities, is recognized and confirmed and such agreement or determination provides that any of the Authorizations are void or voidable (the "**Prejudiced Authorizations**"), then, so that BC Hydro and the Province have certainty of operations of the Facilities in a manner consistent with this Agreement:

- (a) BC Hydro shall be permitted continued and uninterrupted exclusive use and operation of the Facilities on substantially the same terms and conditions, except fees, as the Prejudiced Authorizations; and

- (b) If such agreement or determination requires parallel or replacement authorizations from St'át'imc or any Community, then St'át'imc or any such Community will issue to BC Hydro parallel or replacement authorizations on substantially the same terms and conditions, except fees, as the Prejudiced Authorizations;

all with no cost to BC Hydro or the Province, and with no user or other fees of any kind payable by BC Hydro or the Province thereunder, it being acknowledged that the performance by BC Hydro and the Province of their respective obligations under the Settlement Agreements, this Agreement and the Relations Agreement constitute full consideration for the agreements of St'át'imc and each Community as set out in this Section.

4.2 **Other BC Hydro Programs.** Nothing in this Agreement precludes BC Hydro from funding or implementing, nor precludes St'át'imc, a Community or a Community Member from applying or qualifying for, other initiatives similar to those for which the Program Payments are to be used as BC Hydro may otherwise have in place from time to time and such initiatives as BC Hydro's Community Development Fund, in each case in accordance with the criteria established for those initiatives from time to time.

4.3 **Provincial Programs.** The parties acknowledge and agree that pursuant to Sections 2.7 and 3 of this Agreement St'át'imc has, amongst other things, released the Province, BC Hydro and BCTC from any and all claims St'át'imc may have now or in the future for revenue sharing in relation to the Facilities. However, nothing in this Agreement precludes St'át'imc from time to time participating in, or benefiting from, or qualifying for, future Provincial benefits sharing programs, policies or initiatives of general application, in accordance with the criteria established for those programs from time to time, including programs intended to share revenues derived from the generation and transmission of hydro electric power (including revenue derived by the Province from the Facilities) and programs established for funding participation in consultation processes.

4.4 **BCRP Applications.** Nothing in this Agreement:

- (a) will preclude St'át'imc from applying to the BCRP to obtain funding for projects or studies typically funded through the BCRP; and
- (b) is evidence of or constitutes approval by St'át'imc of any future BCRP projects within the Territory.

4.5 **Future Water Use Planning.**

- (a) St'át'imc shall remain entitled to participate in any reviews of the Bridge River WUP (or any other future multi-party planning or decision-making processes for water use plans that include all or a portion of the water bodies outlined in the map attached as Schedule 5) (collectively, "**Future Bridge River Water Use Planning**");
 - (i) to make and support recommendations that are consistent with the Bridge River WUP; and

- (ii) to participate in any SDM Process for the review and implementation of the St'át'imc Conditions and the Bridge River WUP provided that, unless otherwise agreed in writing by BC Hydro, St'át'imc will not advocate or make any recommendations that would result in a change to the Bridge River WUP that would require BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime;

provided that with respect to any water use planning process, St'át'imc will not encourage, commence, join, prosecute, assert, intervene in or support any Proceeding to review or appeal the decision of the Comptroller with respect to the acceptance, rejection or modification of any position advocated, or recommendation made by St'át'imc, or with respect to the scope or manner of implementation of any such position or recommendation, on any basis or grounds, including the ground that there is a failure to satisfy a legal obligation to St'át'imc or any Community to consult with them in respect of their existing or asserted aboriginal title or rights or future treaty rights, or to accommodate those existing or asserted title or rights or future treaty rights unless the decision of the Comptroller may result in a change in the terms and conditions of the Bridge River WUP or other operating conditions that may allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime.

- (b) Lil'wat, in consultation with St'át'imc (PC), shall remain entitled to participate in any reviews of the Cheakamus WUP (or any other future multi-party planning or decision-making processes for water use plans that include all or a portion of the water bodies outlined in the map attached as Schedule 6 that fall within Lil'wat's Area of Interest) (collectively, "**Future Cheakamus Water Use Planning**"), provided that:
 - (i) if Lil'wat, in consultation with St'át'imc (PC), wish to make recommendations or advocate any position that, if adopted by the Comptroller, could result in a change to the Cheakamus WUP that would require BC Hydro to operate the Cheakamus Generation Facilities in a materially different manner from the Cheakamus WUP and any Cheakamus Water Licences, then Lil'wat agrees to first engage in discussions with BC Hydro and any other interested First Nations regarding their proposed recommendations or positions and BC Hydro agrees to engage in good faith in such discussions;
 - (ii) Lil'wat, in consultation with St'át'imc (PC), will not make any such recommendations or advocate any such positions to the Comptroller unless such recommendations or positions have been agreed to in writing by BC Hydro and any other interested First Nations that participate in the discussions contemplated by Section 4.5(b)(i); and

- (iii) Lil'wat, in consultation with St'át'imc (PC), will not encourage, commence, join, prosecute, assert, intervene in or support any Proceeding to review or appeal the decision of the Comptroller with respect to the acceptance, rejection or modification of any position advocated, or recommendation made by Lil'wat, in consultation with St'át'imc (PC), or with respect to the scope or manner of implementation of any such position or recommendation, on any basis or grounds, including the ground that there is a failure to satisfy a legal obligation to Lil'wat or St'át'imc (PC) to consult with them in respect of their existing or asserted aboriginal title or rights or future treaty rights, or to accommodate those existing or asserted title or rights or future treaty rights unless the decision of the Comptroller may result in a change in the terms and conditions of the Cheakamus WUP or other operating conditions that may allow BC Hydro to operate its Cheakamus Generating Facilities in a materially different manner from the Cheakamus WUP and Cheakamus Water Licences.
- (c) The Parties acknowledge and agree that:

 - (i) any and all obligations of BC Hydro, BCTC and the Province, or any of them, to consult with any of St'át'imc, any Community or the Community Members in respect of their existing or asserted aboriginal title or rights or any future treaty rights, or to accommodate those existing or asserted aboriginal title or rights or future treaty rights arising from any amendments to or renewals or replacements of the Bridge River WUP or other orders made after the Effective Date by the Comptroller in respect of the Bridge-Seton Generation Facilities from time to time that do not result in a change in the terms and conditions of the Bridge River WUP or other operating conditions that may allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime are satisfied by this Agreement, the Settlement Agreements and the Relations Agreement and the performance by BC Hydro and the Province of their obligations thereunder;
 - (ii) any and all obligations of BC Hydro, BCTC and the Province, or any of them, to consult with any of St'át'imc, any Community or the Community Members in respect of their existing or asserted aboriginal title or rights or any future treaty rights, or to accommodate those existing or asserted aboriginal title or rights or future treaty rights arising from any amendments to or renewals or replacements of the Bridge River WUP or other orders made after the Effective Date by the Comptroller in respect of the Bridge-Seton Generation Facilities from time to time that result in a change in the terms and conditions of the Bridge River WUP or other operating conditions that may allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime are not satisfied by this Agreement, the Settlement Agreements or the Relations Agreement;

- (iii) any and all obligations of BC Hydro, BCTC and the Province, or any of them, to consult with any of St'át'imc, any Community or the Community Members in respect of their existing or asserted aboriginal title or rights or any future treaty rights, or to accommodate those existing or asserted aboriginal title or rights or future treaty rights arising from any amendments to or renewals or replacements of the Cheakamus WUP or other orders made after the Effective Date by the Comptroller in respect of BC Hydro's Cheakamus Generation Facilities from time to time that do not result in a change in the terms and conditions of the Cheakamus WUP Order, Cheakamus Water Licences or other operating conditions that may allow BC Hydro to operate its Cheakamus Generation Facilities in a materially different manner from the Cheakamus WUP Order are satisfied by this Agreement, the Settlement Agreements and the Relations Agreement and the performance by BC Hydro and the Province of their obligations thereunder; and
- (iv) any and all obligations of BC Hydro and the Province, or any of them, to consult with any of St'át'imc, any Community or the Community Members in respect of their existing or asserted aboriginal title or rights or any future treaty rights, or to accommodate those existing or asserted aboriginal title or rights or future treaty rights arising from any amendments to or renewals or replacements of the Cheakamus WUP or other orders made after the Effective Date by the Comptroller in respect of BC Hydro's Cheakamus Generation Facilities from time to time that result in a change in the terms and conditions of the Cheakamus WUP, Cheakamus Water Licences or other operating conditions that may allow BC Hydro to operate its Cheakamus Generation Facilities in a materially different manner from Cheakamus WUP are not satisfied by this Agreement, the Settlement Agreements or the Relations Agreement; and
- (v) the Relations Agreement does not apply to the Cheakamus Generation Facilities. However, if at any date in the future BC Hydro enters into an agreement with another First Nation that applies, in whole or in part, to the Cheakamus Generation Facilities which includes commitments similar in nature to those included in the Relations Agreement then BC Hydro agrees to negotiate with Lil'wat in good faith to implement commitments with Lil'wat that are similar to those made to such other First Nation.

Sections 4.5(c)(ii) and 4.5(c)(iv) do not impose, create, extend or limit any legal obligation to St'át'imc or any Community that BC Hydro or the Province would not have in the absence of this Agreement.

5. NEW TRANSMISSION LINE

- 5.1 **Representation of Communities.** Without limiting Section 1.2, each Community other than the New TL Interested Communities authorizes St'át'imc Authority to represent it in and carry out any of its obligations relating to the New Transmission Line, including:

- (a) the New Transmission Line Process; and
 - (b) any other process required by any provincial or federal regulatory authorities in respect of the authorization, construction and operation of the New Transmission Line, including any environmental assessment process.
- 5.2 **New Transmission Line Process.** With respect to the authorization, construction and operation of the New Transmission Line, the Parties agree to follow the process set out in Section 16.1 of the Relations Agreement (the “**New Transmission Line Process**”). The Parties agree not to make any material amendments to the New Transmission Line Process without the prior written agreement of the Parties, including the Province.
- 5.3 **Community Agreements – Reserve Lands.** The Parties acknowledge that as a condition of their respective Community Settlement Agreements and in the manner set out therein, Tsal’álh, Xwisten and N’Quatqua agree to the granting of those easements required by BC Hydro for the New Transmission Line over identified lands within their respective reserves.
- 5.4 **Covenants.** St’át’imc and each of the New TL Interested Communities covenant and agree with BC Hydro and the Province that they:
- (a) will, subject to Section 5.4(c), neither object to, nor seek to set aside any rights, tenures, approvals, permits, licences, easements, orders or other authorizations, granted or to be granted by any provincial or federal authority as may be required for the New Transmission Line, including any rights, tenures, approvals, permits, licences, easements, orders or other authorizations, granted or to be granted in respect of the existence, authorization, design, construction, installation, operation, maintenance, repair, reconstruction, alteration, upgrading, closure, removal, relocation or replacement of the New Transmission Line;
 - (b) will not:
 - (i) take any action, legal or otherwise that may impede, hinder, dispute, frustrate, delay or stop:
 - (A) the New Transmission Line, including the existence, authorization, design, construction, installation, operation, maintenance, repair, reconstruction, alteration, upgrading, closure, removal, relocation or replacement of the New Transmission Line;
 - (B) any provincial or federal authority making decisions with respect to the New Transmission Line;

and without limiting the foregoing, none of the Communities will encourage, commence, join, prosecute, assert, intervene in or support any Proceeding to review or appeal the decision of any statutory decision maker with respect to the New Transmission Line, on any basis or grounds, including the ground that there is a failure to satisfy a legal

obligation to any of the Communities to consult with them in respect of their existing or asserted aboriginal title or rights or future treaty rights, or to accommodate those existing or asserted title or rights or future treaty rights; or

- (ii) seek any further compensation or other accommodation from BC Hydro or the Province with respect to the New Transmission Line other than the compensation and accommodation provided for in the Settlement Agreements;
- (c) agree that if an application is made by BC Hydro for a Certificate of Public Convenience and Necessity in respect of the New Transmission Line, then St'át'imc and the New TL Interested Communities may intervene therein, but solely on the issue of whether the New Transmission Line is in the public interest. For greater certainty, St'át'imc and the New TL Interested Communities are precluded from so intervening on the basis of:
 - (i) inadequate consultation and/or accommodation with respect to the New Transmission Line; or
 - (ii) infringement of aboriginal title or rights.

6. DEFAULT

6.1 **Events of Default.** An event of default (a “**Default**”) arises if a Party (a “**Defaulting Party**”) fails to observe, perform or carry out any of its obligations under this Agreement and such failure continues for 30 days (or such longer period of time as the Non-Defaulting Parties may consent to, acting reasonably) after any Party not in default (a “**Non-Defaulting Party**” individually and the “**Non-Defaulting Parties**” collectively) gives a written notice of the Default to the Defaulting Party and the other Non-Defaulting Party, which notice shall set out particulars of the Default and demand that the Default be cured.

6.2 **Remedies for Default by St'át'imc or a Community.** For any Default by St'át'imc or any Community:

- (a) BC Hydro may, subject to Section 7, pursue any remedy available to BC Hydro under the Dispute Resolution Process, including damages or other financial sanctions;
- (b) the Province may pursue the remedies available to it at law or in equity.

6.3 **Remedies for Default by BC Hydro.** Subject to Sections 7 and 1.2, for any Default by BC Hydro, St'át'imc may pursue any remedy available to it under the Dispute Resolution Process, including damages or other financial sanctions.

6.4 **Remedies for Default by the Province.** For any Default by the Province, St'át'imc may pursue the remedies available to it at law or in equity.

6.5 **Waiver.** Any Party may waive, in writing, a Default by another Party, but any such waiver of a particular Default will not operate as a waiver of any subsequent or continuing Default.

7. **DISPUTE RESOLUTION**

7.1 **Scope of Dispute Resolution Process.** Subject to Section 7.2, and except as otherwise provided in this Agreement, all disputes, differences and disagreements between BC Hydro and St'át'imc and/or one or more Communities as to the meaning, application or implementation of any provision of this Agreement, including but not limited to any dispute, difference or disagreement as to:

- (a) whether or not a Default has occurred under this Agreement;
- (b) whether or not a proposed action by a Party will constitute a Default under this Agreement;
- (c) any claim for damages or any other remedy for a Default by BC Hydro and St'át'imc and/or one or more Communities;
- (d) whether or not any amendment to or renewal or replacement of the Bridge River WUP or other order made after the Effective Date by the Comptroller in respect of the Bridge-Seton Generation Facilities results in a change in the terms and conditions of the Bridge River WUP or other operating conditions that may allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime; or
- (e) whether or not any amendment to or renewal or replacement of the Cheakamus WUP or other order made after the Effective Date by the Comptroller in respect of the Cheakamus Generation Facilities results in a change in the terms and conditions of the Cheakamus WUP or other operating conditions that may allow BC Hydro to operate the Cheakamus Generation Facilities in a materially different manner from the Cheakamus WUP and Cheakamus Water Licences;

will be resolved in accordance with the Dispute Resolution Process under this Section 7.

7.2 **Exclusions.** The Dispute Resolution Process under this Section 7 does not apply to any dispute, difference or disagreement between St'át'imc and/or one or more Communities and the Province under this Agreement or otherwise.

7.3 **Confidentiality of Process.** The Parties and the Disputing Parties will keep confidential all discussions, negotiations, mediations, arbitrations and any other communications and proceedings conducted under the Dispute Resolution Process, and will not disclose to any other person such discussions, negotiations, mediations, arbitrations or other communications or proceedings, or the content thereof, unless previously discussed and agreed to in writing by the Disputing Parties or otherwise required by Law. For greater certainty:

- (a) nothing herein shall restrict BC Hydro's ability to keep the Province informed with respect to any Disputes;
- (b) no part of the Dispute Resolution Process will be open to the public; and
- (c) nothing herein shall restrict the St'át'imc Authority's ability to keep the Communities and Members, or any Community's ability to keep its Community Members, informed with respect to any Disputes;

7.4 **Notice of Dispute.** A Disputing Party may invoke the Dispute Resolution Process by delivering a written notice to the other Parties that a Dispute exists (a "**Dispute Notice**"), describing the nature and extent of the Dispute.

7.5 **Stages.** Except as provided in Section 7.6, or as otherwise agreed to by the Disputing Parties, any Disputes arising between the Disputing Parties will progress, until resolved, through the following stages of the Dispute Resolution Process:

STAGE 1: Within 30 days of a Dispute Notice, the Steering Committee will make bona fide efforts to resolve the Dispute.

STAGE 2: If the Steering Committee is unable to resolve the Dispute within 30 days of the Dispute Notice (the "**Stage 1 Dispute Period**"), the Principals will, within 15 days of the expiry of the Stage 1 Dispute Period, meet and make bona fide efforts to resolve the Dispute.

STAGE 3: If the Principals are unable to resolve the Dispute within 30 days of the end of the Stage 1 Dispute Period, then any Disputing Party may give written notice to the other Disputing Party of a desire to commence mediation, and the Disputing Parties will jointly appoint a mutually acceptable mediator within 30 days after such notice is given. If the Disputing Parties are unable to agree upon the appointment of a mediator within 30 days after a Disputing Party has given written notice of a desire to mediate the Dispute, any Disputing Party may apply to the British Columbia Mediator Roster Society for the appointment of a mediator. The mediation will be conducted under the Mediation Rules of the British Columbia Mediator Roster Society unless otherwise agreed to in writing by the Disputing Parties.

STAGE 4: If the Dispute has not been resolved through mediation under Stage 3 within 60 days of the appointment of a mediator, then any Disputing Party, by means of written notice to the other Disputing Parties, may refer such unresolved Dispute to binding arbitration under the *Commercial Arbitration Act*. The Disputing Parties will agree on a single arbitrator within 30 days of the notice of arbitration being provided, failing which the arbitrator will be selected in accordance with the *Commercial Arbitration Act*. The decision of the arbitrator will be final and binding on the Disputing Parties.

7.6 **Exceptions to Dispute Resolution Process.** Despite anything else in this Section 7:

- (a) any Disputing Party may by notice in writing to the other Disputing Party elect to refer a Dispute relating to whether an action or a proposed action by any

Disputing Party will constitute a material Default directly to Stage 4 of Section 7.5 for arbitration; or

- (b) in urgent circumstances, a Dispute referred directly to arbitration under Section 7.6(a) will be conducted on an expedited basis, to the extent reasonably necessary, to avoid prejudice to a Disputing Party.

7.7 **Without Prejudice.** The Disputing Parties' attempts during Stages 1 - 3 to resolve a Dispute are without prejudice to any position or argument such Disputing Parties may wish to make in Stage 4.

7.8 **Availability of Argument.** In any Dispute, a Disputing Party may raise any defence or argument that it would otherwise have been able to raise at law, equity or otherwise, had the dispute been referred to a court of competent jurisdiction, including a defence that the Dispute is statute-barred by the *Limitation Act*, R.S.B.C. 1996, c. 266.

7.9 **Arbitrator's Powers.** An arbitrator appointed under this Section 7 may award remedies at law and in equity (including injunctive relief), but may not make any award that restricts, constrains or alters BC Hydro's use or operation of the Facilities.

7.10 **No Further Claims.** When Disputes are resolved under this Section 7:

- (a) no Disputing Party may make any further claim against the other Disputing Parties; and
- (b) no further compensation will be payable by a Disputing Party to the other Disputing Parties;

for the same Dispute.

7.11 **Dispute Resolution Costs.** Unless otherwise ordered by an arbitrator appointed under this Section 7, in any Dispute to which the Dispute Resolution Process applies, each Disputing Party will be responsible for all of its own costs and its equal share of the shared costs, including the cost of mediators, arbitrators, facilities and reporters necessary to conduct the Dispute Resolution Process. For greater certainty, any arbitrator shall have the authority to assess costs, including actual costs against a Disputing Party.

7.12 **Province's Action During Dispute Resolution Process.** If BC Hydro gives notice to St'át'imc and/or one of more Communities of a Dispute under the Dispute Resolution Process under Section 7.4, the Province will not initiate or continue to pursue any action seeking any remedy available to it at law or in equity for the same issue which is the subject of the Dispute until after that Dispute is resolved (as between BC Hydro and the other Disputing Parties) through the Dispute Resolution Process, except:

- (a) to prevent the loss of a right of action due to the expiration of a limitation period;
- (b) to obtain interlocutory or interim relief; or

(c) if the matter is considered by the Province to be of an urgent nature.

8. FORCE MAJEURE

8.1 Notice of Force Majeure. Subject to Section 8.6, a Party will not be liable for any delay or failure to perform any of its obligations under this Agreement if as soon as possible after the beginning of the Event of Force Majeure affecting the ability of the Party to perform any of its obligations under this Agreement, it gives a notice, in writing, to the other Parties that complies with Section 8.2 and it otherwise complies with its obligations under this Section 8.

8.2 Force Majeure Notice. A notice given under Section 8.1 must to the extent reasonably possible in the circumstances:

- (a) specify the obligations the Affected Party cannot perform;
- (b) fully describe the Event of Force Majeure;
- (c) estimate the time during which the Event of Force Majeure will continue; and
- (d) specify the measures proposed to be adopted to remedy or abate the Event of Force Majeure.

8.3 Obligation to Remedy and Mitigate. Subject to Section 8.6, the Affected Party must take all actions that are reasonably practicable:

- (a) to remedy the Event of Force Majeure and resume performance of its obligations under this Agreement as soon as reasonably possible thereafter, acting diligently; and
- (b) to mitigate any liability suffered by the other Parties as a result of its failure to carry out its obligations under this Agreement but without any obligation to make any additional monetary compensation.

As reasonably requested from time to time by another Party an Affected Party will meet with the other Parties to discuss the Event of Force Majeure and the steps proposed to be taken or taken to remedy and mitigate it.

8.4 Mitigation. Any Party which is not the Affected Party must use reasonable efforts to remove or mitigate and co-operate in the removal and mitigation of the Event of Force Majeure and its effects.

8.5 Effect of Force Majeure on Time and Payment. Subject to Section 8.3, any time period provided for in this Agreement will be extended by a period equivalent to the period of delay resulting from the Event of Force Majeure.

8.6 Exceptions. Nothing in this Section 8:

- (a) shall allow a Party to rely upon an Event of Force Majeure to relieve such Party from performing any obligation to pay money under this Agreement when due or any of its obligations under Sections 2.7, 3, 4.1(a), 5.4(a) or 5.4(b);
- (b) obliges the Province, BC Hydro or St'át'imc to:
 - (i) settle any strike, lockout, ban, limitation of work or other industrial disturbance;
 - (ii) test the validity of any Law; or
 - (iii) perform its obligations under this Agreement if the Event of Force Majeure renders performance impossible or unreasonably expensive.

9. GENERAL

- 9.1 **Notices.** Except as otherwise provided in this Agreement, any notice, direction, demand, request or document required or permitted to be given by any Party to any other Party under this Agreement will be in writing and deemed to have been sufficiently given if signed by or on behalf of the Party giving the notice and delivered in person or transmitted by facsimile to the other Party's address or facsimile number as shown below:

To St'át'imc:

St'át'imc
Box 2218, 650 Industrial Place
Lillooet, BC V0K 1V0

Attention: Executive Director

Facsimile: 250-256-0445

With a copy to:

Mandell Pinder
422-1080 Mainland Street
Vancouver, BC V6B 2T4

Attention: Brenda Gaertner

Facsimile: 604-681-0959

To BC Hydro:

British Columbia Hydro and Power Authority
6911 Southpoint Drive
Burnaby, BC V3N 4X8

Attention: Lyle Viereck, Director Aboriginal Relations and Negotiations

Facsimile: 604-528-3157

With a copy to:

Fasken Martineau DuMoulin, LLP
3400 - 350 7 Avenue SW
Calgary, AB T2P 3N9

Attention: Peter Feldberg

Facsimile: 403-261-5351

To the Province:

Ministry of Aboriginal Relations and Reconciliation
2957 Jutland Road, 5th Floor
P.O. Box 9100, Stn Prov. Gov.
Victoria, BC V8W 9B1

Attention: Deputy Minister

Facsimile: 250-387-6073

With a copy to:

Ministry of Attorney General
4th Floor, 1405 Douglas Street
Victoria, BC V8W 2G2

Attention: Geoff Moyse

Facsimile: 250-356-8939

or to such other address or to such other facsimile number or to the attention of such other official or individual as a Party will have most recently notified the other Parties in writing. The Parties will, from time to time, provide written notice to the other Parties of any changes to the contact persons or contact details listed for such Party under this Section 9.1. Any such notice, direction, request or document will conclusively be deemed to have been received by the intended recipient on the date of delivery or transmission, as the case may be, except that if it is not received at such address or at the facsimile device by 5:00 P.M. on a Business Day (at the place of receipt) it will conclusively be deemed to have been received by the intended recipient on the next Business Day immediately following its receipt at such address or at such facsimile device.

- 9.2 **Entire Agreement.** The Settlement Documents and any other agreement in writing between any of the Parties which is entered into substantially contemporaneously with this Agreement and relates to the subject matter of the Settlement Documents, constitutes the entire agreement among the Parties relating to the subject matter of this Agreement and supersedes all prior negotiations and agreements, whether written, oral, implied or collateral, among the Parties with respect to the subject matter of this Agreement, including without limitation 1998 MOU and the Negotiating Protocol; which are terminated hereby.
- 9.3 **Independent Legal Advice.** Each of the Parties acknowledges that each of them will have executed this Agreement freely and voluntarily, without duress and after receiving independent legal advice from their respective solicitors.
- 9.4 **Set-Off.** If under this Agreement (other than pursuant to the indemnity of Lil'wat under Section 3.4), the Ratification Agreement, the St'át'imc (PC) Settlement Agreement, the Relations Agreement or any Community Settlement Agreement entered into by a Participating Community, a Party (the "**Owing Party**") becomes obligated under a dispute resolution determination or, in the case of disputes between the Province and a Party, under a judgment of a court, to pay any sum of money to another Party (the "**Intended Recipient**"), then such sum may, at the election of the Intended Recipient and without limiting or waiving any right or remedy of that Intended Recipient, be set off against and will apply to any sum of money owed by Intended Recipient under any of such Agreements (other than monies owed by BC Hydro under the Relations Agreement in respect of capacity funding) and payable to the Owing Party, until such amount has been completely set-off. For greater certainty, BC Hydro or the Province may set off against any amount payable by it under the St'át'imc (PC) Settlement Agreement to St'át'imc (PC) (either directly or to the Trust) or any Participating Community any amount that may become owing by St'át'imc or one or more Communities to BC Hydro or the Province under the Ratification Agreement, this Agreement (other than pursuant to the indemnity of Lil'wat under Section 3.4), the Relations Agreement or any Community Settlement Agreement entered into by a Participating Community.
- 9.5 **General Compliance.** Each Party shall comply at all times and in all respects with the requirements of all Laws applicable to this Agreement and the operations of the Parties hereunder.

- 9.6 **General Sharing of Information.** The Parties agree, subject to any confidentiality obligations to third parties or any security concern, to provide to the other Parties such information requested by the other Parties, acting reasonably, as may be necessary to properly carry out the obligations under this Agreement.
- 9.7 **Governing Law.** This Agreement is deemed to be made in British Columbia, and will be governed by and construed and interpreted in accordance with the laws of British Columbia and the laws of Canada applicable therein.
- 9.8 **Assignment and Successorship.**
- (a) BC Hydro may assign its rights and obligations under this Agreement to future owners of the Facilities, subject to the consent of St'át'imc, such consent not to be unreasonably withheld or delayed.
 - (b) Neither St'át'imc nor any Community may assign any of its rights or obligations under this Agreement, without the consent of BC Hydro, which consent may be withheld in the discretion of BC Hydro. If, at the time that either St'át'imc or any Community makes a written request for the consent of BC Hydro to an assignment of any of its rights or obligations under this Agreement, a demand under the guarantee of the Province pursuant to Section 2.13 of the St'át'imc (PC) Settlement Agreement has been made by St'át'imc (PC) and the Province has made the most recent payment due and owing by BC Hydro under such Agreement, then, in addition to the consent of BC Hydro, the consent of the Province to such assignment shall also be required, which consent may be withheld in the discretion of the Province.
 - (c) Each Community will ensure that this Agreement and such Community's obligations hereunder will be assumed, adopted and ratified unaltered in form and substance by its successor organization or government, or any new organization or government which effectively replaces such Community in the event that it ceases to exist as an Indian Band within the meaning of the *Indian Act* pursuant to any agreement, treaty, land claim agreement, self-government agreement or other agreement or legislation, or in the exercise of any rights or powers granted pursuant to those agreements, that such Community (or any other group of which the Community forms a part) may enter into with the Government of Canada and/or the Province.
- 9.9 **Amendment.** The only amendments to this Agreement which are binding on the Parties are written amendments signed by the Parties. For St'át'imc, such amendments must be consented to by the St'át'imc Authority (without further ratification by the Members) and each of the Communities (without further ratification by each Community's Community Members).
- 9.10 **Further Assurances.** As and so often as a Party may reasonably require, each Party will execute and deliver further documents and assurances as may be necessary to properly carry out this Agreement.

9.11 **Waivers.** No provision of this Agreement may be waived by a Party, except by written notice to the other Parties and any waiver of a provision:

- (a) is valid only in respect of the specific instance to which it relates and is not a continuing waiver; and
- (b) is not a waiver of any other provision.

9.12 **Time.** Time will be of the essence of this Agreement.

9.13 **Counterparts.** This Agreement may be signed in one or more counterparts, each counterpart may be transmitted by facsimile or email and each will constitute an original instrument and such counterparts, taken together, will constitute one and the same document.

This Agreement has been executed and delivered as of the date of this Agreement as set out on the first page.

St'át'imc Parties

St'át'imc Authority:

ST'ÁT'IMC CHIEFS COUNCIL

By:

The Chair of the SCC, Michael Leach

Lil'wat:

MOUNT CURRIE INDIAN BAND

By:

Chief Lucinda Phillips

N'Quatqua:

N'QUATQUA INDIAN BAND

By:

Chief Arthur Ralph Thevarge

Samahquam:

SAMAHQUAM INDIAN BAND

By:

Chief Brenda Lester

Sekw'elw'as:

CAYOOSE CREEK INDIAN BAND

By:

Chief Perry Redan

Skatin:

SKATIN NATIONS INDIAN BAND

By:

Chief Patrick Williams

T'it'q'et:

T'IT'Q'ET INDIAN BAND

By:

Chief Kevin Whitney

Tribal Chief Shelley Leach

Tsal'álh:

SETON LAKE INDIAN BAND

By:

Chief Garry John

Ts'kw'aylaxw:

TS'KW'AYLAXW FIRST NATION

By:

Chief Clifford Alec

Xaxli'p:

XAXLI'P INDIAN BAND

By:

Chief Arthur Adolph

Xa'xtsa:

DOUGLAS INDIAN BAND

By:

Chief Donald Harris

Xwisten:

BRIDGE RIVER INDIAN BAND

By:

Chief Bradley Jack

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:

President and CEO David Cobb

**HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA**

By:

Honourable Mary Polak,
Minister of Aboriginal Relations and
Reconciliation

SCHEDULE 1
COMMON DEFINITIONS

SCHEDULE 2

FACILITIES

Generation Facilities

- Terzaghi Dam and Discharge Facilities on the Bridge River, and Carpenter Reservoir
- Bridge River No. 1 powerhouse at Seton Lake, including penstocks
- Bridge River No. 2 powerhouse at Seton Lake, including penstocks
- Two tunnels diverting water from Carpenter Reservoir, through Mission Mountain to the Bridge River powerhouses at Seton Lake, including the two intake structures and Exit Facilities
- Seton Dam and Discharge Facilities, canal and powerhouse near Lillooet
- Cayoose diversion tunnel
- La Joie Dam and Discharge Facilities and Downton Reservoir
- La Joie Powerhouse and Power Tunnels
- Bridge River No. 2 shops complex
- Bridge River townsite and infrastructure
- Mission MW site
- Mission 2 MW site
- Mission Snow Cat Shed
- Daisy Lake Dam and Intake Tunnels to the diversion tunnel

Transmission Lines

- Line 60L20 (60 kV) from Seton powerhouse to Carquille
- Line 60L21 (60 kV) from Seton powerhouse to Bridge River No. 1 powerhouse
- Line 60L22 (60 kV) from Bridge River No. 1 powerhouse to LaJoie powerhouse
- Line 2L1 (230 kV) from Bridge River Terminal to Cheekeye
- Line 2L2 (230 kV) from Bridge River Terminal to Cheekeye

- Line 2L5 Cheekeye to Function Junction
- Line 2L12 Cheekeye to Kelly Lake
- Line 2L19 (230 kV) from Bridge River Terminal to Bridge River Powerhouse No. 1
- Line 2L90 (230 kV) from Bridge River Terminal to Kelly Lake
- Line 2L91 (230 kV) from Bridge River Terminal to Kelly Lake
- Line 3L2 (360 kV) from Bridge River Terminal to Rosedale
- Line 3L13 (360 kV) from Bridge River Terminal to Bridge River Powerhouse No. 2
- Line 3L14 (360 kV) from Bridge River Terminal to Bridge River Powerhouse No. 2
- Line 3L15 (360 kV) from Bridge River Terminal to Bridge River Powerhouse No. 1
- Line 3L16 (360 kV) from Bridge River Terminal to Bridge River Powerhouse No. 1
- Line 5L41 (500 kV) from Kelly Lake to Ingledow
- Line 5L42 (500 kV) from Kelly Lake to Cheekeye (Meridian)
- BRT Bridge River Terminal Substations
- LLT Lillooet and (SON) Seton Substation
- TXL TYAX Substation
- KWL Mission Substation
- RUT Rutherford Substation
- ASL Ashlu Creek Substation
- UHT Upper Harrison Terminal
- SAC Sachteen Substation
- DSY Cheakamus Substation
- FCN Function Junction Substation
- RBL Rainbow Substation
- PEM Pemberton Substation

- TIS Tisdale Substation
- PAV Pavilion Substation
- CLL Continental Line Substation

Access Roads

There are a number of access roads constructed or upgraded by BC Hydro within the Territory. Although the access roads are generally located within the transmission line right of ways, in steep terrain, they often switchback and contour well outside the transmission line corridor. Typical access roads are shown Territory Map (Schedule 3 to the Certainty Provisions Agreement)

Recreation Facilities

- Seton Beach
- Seton Viewpoint
- Seton Lake Campground
- Naxwit Picnic Site

Communication Facilities

Microwave towers shown on Territory Map (Schedule 3 to the Certainty Provisions Agreement)

Microwave towers:

- Daisy Lake Shack
- Black Tusk
- D'Arcy
- Mission Mountain
- Carson
- Stokie Creek
- Unkawthia

Reflector sites:

- Cheekeye to Black Tusk
- Creekside to Black Tusk
- Kelly to Carson

SCHEDULE 3
TERRITORY MAP

See attached.

SCHEDULE 4
WATER LICENCES

See attached.

SCHEDULE 5
BRIDGE WATER USE PLANNING MAP

See attached.

SCHEDULE 6
CHEAKAMUS WATER USE PLANNING MAP

See attached.

SCHEDULE 3
RELATIONS AGREEMENT

See attached.

RELATIONS AGREEMENT

BETWEEN

ST'ÁT'IMC

AND

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

May 10th, 2011

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RELATIONS AGREEMENT

THIS RELATIONS AGREEMENT is made as of the 10th day of May, 2011,

BETWEEN:

ST'ÁT'IMC

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

BACKGROUND:

- A. St'at'imc, the Province and BC Hydro have agreed to utilize two Settlement Agreements (the St'at'imc (PC) Settlement Agreement and the Lil'wat Settlement Agreement), together with the other Settlement Documents, to address past grievances, mitigate impacts and create a new relationship based on mutual respect and understanding regarding the Facilities and their continued operations;
- B. The Parties wish to enter this living agreement that evolves over time with the mutual goal of respectful and effective relations between the Parties regarding the activities of BC Hydro in connection with, among other things, the Facilities (RA), New Authorizations (RA) and New Facilities (RA);
- C. BC Hydro is the owner of the Facilities (RA) and, as of the Effective Date, is responsible for operating the Facilities (RA);
- D. It is the intention of the Parties (including Lil'wat) that the terms and conditions of this Agreement not apply to the Cheakamus Generation Facilities; and
- E. With respect to environment and natural resource mitigation initiatives that the Parties may undertake in the Territory, the Parties recognize that they will need to work collaboratively with third parties.

NOW THEREFORE IN CONSIDERATION for \$1.00 now paid by BC Hydro to St'át'imc and to each of the Communities and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties), the Parties agree with each other as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Definitions.** In this Agreement, including the recitals/preamble the following words, phrases and expressions have the following meanings. In addition, the words, phrases and expressions set out in Schedule A shall have the meanings given to them therein

unless such words, phrases or expressions are otherwise defined in this Section 1.1, in which case the definitions in this Section shall apply and take precedence.

- (a) **“Appraisals”** has the meaning given in Section 18.2(a);
- (b) **“BC Hydro Year”** means from April 1 of any year to and including March 31 of the following year;
- (c) **“Closing Period”** has the meaning given in Section 18.4;
- (d) **“Closure Impact”** means any material impact on aboriginal title or rights or future treaty rights arising as a result of a Closure (RA) to the extent such impact is incremental or in addition to the Footprint Impacts;
- (e) **“Closure (RA)”** means a Closure other than a Closure of the Cheakamus Generation Facilities;
- (f) **“Confidential Information”** means any information provided by a Party to another Party pursuant to this Agreement which is marked in writing as confidential provided that Confidential Information shall be deemed to exclude any information that:
 - (i) is used or disclosed by the receiving Party in a manner consistent with the prior written authorization of the Party providing the Confidential Information;
 - (ii) was, at the time of disclosure to the receiving Party, in the public domain;
 - (iii) after disclosure to the receiving Party, is published or otherwise becomes part of the public domain through no fault of the receiving Party;
 - (iv) was in the possession of the receiving Party at the time of disclosure to it and was not the subject of a pre-existing confidentiality obligation; or
 - (v) was received after disclosure to the receiving Party from a third party who had a lawful right to disclose such information to the receiving Party;
- (g) **“Confirmation Period”** has the meaning given in Section 18.3;
- (h) **“Contract Response Period”** has the meaning given in Section 1.1(f)(i)(A) of the Contract Protocol attached as Schedule B;
- (i) **“Contracting Opportunity”** means each contract opportunity made available by BC Hydro or its contractors or subcontractors to an Eligible Business Entity through direct awards, restricted tenders, requests for proposals or other similar procurement processes, pursuant to Section 8 of this Agreement without any concurrent opportunity for bids or submissions by any other party;

- (j) **“Directly Affected Community”** means:
 - (i) in respect of a New Facility (RA), a Community whose Reserves may be:
 - (A) used in connection with or directly impacted by the construction or operation of the New Facility (RA); or
 - (B) in close proximity to and may be directly impacted by the New Facility (RA);
 - (ii) in respect of an Emergency, a Community where there is an Emergency or there are Emergency Measures taking place on or in close proximity to, or which materially impact, the Reserves of such Community;
 - (iii) in respect of a Closure (RA), a Community whose Reserves will be:
 - (A) used in connection with or directly impacted by the Closure (RA); or,
 - (B) in close proximity to and may be directly impacted by the Closure (RA);
 - (iv) in respect of the operation and maintenance of the Facilities (RA), a Community where the operation and maintenance activities are taking place on or in close proximity to, and which materially impacts the Reserves of such Community; or,
 - (v) in respect of Lil’wat, where the circumstances described in Sections 1.1(j)(i), 1.1(j)(ii), 1.1(j)(iii) or 1.1(j)(iv) exist in respect of and are applicable to Lil’wat’s Area of Interest, including the Reserves of Lil’wat;
- (k) **“Disclosing Party”** has the meaning given in Section 4.4(c);
- (l) **“District Lot 3”** means that parcel of property described as DL 3, PID 009-175-920, Lillooet District except Plans A150, 18090 and E9571 located in the town of Lillooet, BC;
- (m) **“Easement”** means any easement, permit or right of way, including a statutory right of way granted under the *Land Title Act* [1996] R.S.B.C., c. 250, held by BC Hydro in connection with the transmission Facilities (other than substations);
- (n) **“Education and Training Program”** has the meaning given in Section 8.11(a);
- (o) **“Education and Training Program Committee”** has the meaning given in Section 8.11(c)(i);

- (p) **“Education and Training Program Manager”** has the meaning given in Section 8.11(c)(ii);
- (q) **“Eligible Business Entity”** means a corporation, partnership, limited or limited liability partnership, joint venture, or other enterprise each of which is majority owned or controlled by St’át’imc and/or one or more Communities;
- (r) **“Emergency Measures”** means any and all courses of action to be taken by BC Hydro in an Emergency to avoid, lessen or otherwise manage the Emergency including saving lives, coming to the assistance of persons in distress, safeguarding property and abating the effects of the Emergency;
- (s) **“Facilities (RA)”** means the Facilities other than the Cheakamus Generation Facilities;
- (t) **“Implementation Manager”** means a managerial person designated by each of BC Hydro and St’át’imc from time to time under Section 9.7 and **“Implementation Managers”** means both of them;
- (u) **“INAC Instruments”** means, collectively, the Distribution Permit, the Transmission Right of Way, the Designated Lands Right of Way, the Road Access Permit and the Flowage Easement (as those capitalized terms are defined in the Community Settlement Agreements);
- (v) **“Initial Appraisal”** has the meaning given in Section 18.2;
- (w) **“Lawful Possessor”** means an Indian within the meaning of the *Indian Act* with lawful possession of a Lawful Possessor Property, as evidenced by a “certificate of possession” issued under the *Indian Act*, a “location ticket” issued under a previous version of the *Indian Act* or a “cardex holding” registered in the Indian Lands Registry and their respective heirs, administrators, executors, successors and assigns, if any;
- (x) **“Lawful Possessor Property”** means any parcel of land within the Reserves which is held by a Lawful Possessor;
- (y) **“Lil’wat’s Area of Interest”** means the geographical area outlined on the map attached as Schedule E;
- (z) **“New Authorization (RA)”** means a right, tenure, approval, permit, licence (including a water licence), easement or right of way (including a transmission line easement or right of way), order and any other authorization that is proposed to be issued to, or on behalf of, BC Hydro in the Territory after the Effective Date in respect of generation or transmission facilities that are New Facilities (RA);

- (aa) **“New Facility (RA)”** means a New Facility other than an upgrade to, or reconstruction or replacement of the Cheakamus Generation Facilities that falls within in Section (mmm)(iii) of the definition of New Facility;
- (bb) **“New Facility (RA) Impacts”** means, as the case may be, either:
 - (i) those impacts to aboriginal title or rights or future treaty rights arising from the New Facilities referred to in Sections (mmm)(i), (mmm)(ii) and (mmm)(v) of the definition of New Facilities; or,
 - (ii) those impacts to aboriginal title or rights or future treaty rights which are incremental or in addition to Footprint Impacts and arising from New Facilities referred to in Sections (mmm)(iii), (mmm)(iv) and (mmm)(vi) of the definition of New Facilities, other than an upgrade to, or reconstruction or replacement of the Cheakamus Generation Facilities that falls within Section (mmm)(iii) of the definition of New Facility;
- (cc) **“New Facility (RA) Process”** has the meaning given in Section 15.1;
- (dd) **“Operation Update”** has the meaning given in Section 7.1;
- (ee) **“Operation Update Meeting”** has the meaning given in Section 7.4;
- (ff) **“Operation Update Meeting Notice”** has the meaning given in Section 7.5;
- (gg) **“Purchaser”** has the meaning given in Section 18.1
- (hh) **“Purchase Price”** has the meaning given in Section 18.1;
- (ii) **“Relations Managers”** means the persons appointed pursuant to Section 3.1 to act as the point of contact for, respectively, each of BC Hydro or St’at’imc for the specific purposes of this Agreement and **“Relations Manager”** means either one of them as the context requires;
- (jj) **“Reserves”** means those reserves, which are reserves within the meaning of the Indian Act, that have been set apart for the use and benefit of any one of the Communities and **“Reserve”** means any one of them;
- (kk) **“Review Commencement Notice”** has the meaning given in Section 1.1(e)(i) of Schedule B;
- (ll) **“RFP”** has the meaning given in Section 1.1(c) of Schedule B;
- (mm) **“Standards of Conduct”** means the standards of conduct policy of BC Hydro as approved by the British Columbia Utilities Commission from time to time;
- (nn) **“St’at’imc Assessment”** has the meaning given in Section 15.1(a)(iii);

- (oo) **“St’at’imc Cultural Heritage”** means in respect of the Territory:
- (i) cultural heritage sites:
 - (A) identified in the *“Stl’atl’imx Nation/BC Hydro Heritage Resources Study Final Report”* 1999, prepared by Arcas Consulting Archaeologists with Lillooet Tribal Council and Creekside Resources Inc.;
 - (B) identified in *“St’at’imc Archaeology Sites Resulting from BC Hydro Development and Operations”* January 4, 2005, prepared by Michael Klassen, Klahanee Heritage Research;
 - (C) identified in such other cultural heritage reports (similar in nature to those identified in Section 1.1(oo)(i)(A) and Section 1.1(oo)(i)(B)) provided from time to time to BC Hydro by the St’at’imc Relations Manager; and
 - (D) similar in characteristics to those sites listed in the cultural heritage reports identified Section 1.1(oo)(i)(A) and Section 1.1(oo)(i)(B) and which are communicated to BC Hydro by the St’at’imc Relations Manager or any Community during the Operation Update process set out in Section 7 or otherwise;
 - (ii) a cultural heritage site similar in characteristics to those sites listed in the cultural heritage reports identified Section 1.1(oo)(i)(A) and Section 1.1(oo)(i)(B) and having aesthetic, educational, historical or spiritual significance to St’at’imc including traditional use areas, sacred and spiritual places, archaeological sites and sites which have historical structural or landscape features;
 - (iii) a place or area which has physical evidence of historical activity such as habitations, culturally modified trees, human remains, earthworks, mounds, trenches, transportation routes, cultural material, pictographs, petroforms or petroglyphs;
 - (iv) cultural heritage objects or artefacts such as tools, utensils, art, or food remains; or
 - (v) any human remains, burial sites, graves or burial place;
- (pp) **“St’at’imc Knowledge”** means an integrated body of knowledge held by St’at’imc in respect of customs, traditions, ecology, heritage, environment, land use and occupation, stewardship, governance and laws, use of natural resources, and other practices and traditions, whether embodied in tangible or intangible form which is transmitted from generation to generation and is constantly evolving in response to a changing environment, and includes knowledge pertaining to:

- (i) living things, their constituent parts, their life cycles, behaviour and functions, their effects on and interactions with other living things (including humans) and with their physical environment;
 - (ii) the physical environment including water, soils, weather, solar and lunar effects, processes and cycles; and
 - (iii) the obtaining and utilizing of living or non-living things for the purpose of maintaining, facilitating, sustaining or improving life;
- (qq) **“Surplus Lands”** means the following lands held in fee simple by BC Hydro as of the Effective Date:
- (i) a Community’s former reserve lands;
 - (ii) in respect of Sekw’elw’as, Sekw’elw’as’ former reserve lands and District Lot 3;
 - (iii) in respect of T’it’q’et, T’it’q’et’s former reserve lands and the remainder of Block B, District Lot 5273, Lillooet District; and
 - (iv) in respect of Lil’wat, Lil’wat’s former reserve lands and BC Hydro’s Creekside Capaciter substation lands described as District Lot 7739, Lillooet District;
- (rr) **“Territory”** means the geographical area outlined in Schedule C of this Agreement; and
- (ss) **"Triggering Event"** means the provision of written confirmation by BC Hydro to St’át’imc and the New TL Interested Communities that the New Transmission Line has entered the project initiation phase and a project manager has been appointed.

1.2 **Interpretation.** Unless the context otherwise expressly requires, in this Agreement:

- (a) the singular includes the plural and conversely;
- (b) a gender includes all genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person (including a Party) includes an individual, company, other body corporate, association, partnership, firm, joint venture or trust;
- (e) a reference to a body or official, other than a Party whether statutory or not:
 - (i) which ceases to exist; or

(ii) whose powers or functions are transferred to another body or official;

is a reference to the body or official which replaces it or which substantially succeeds to its powers or functions;

- (f) a reference to a section, schedule or annexure is a reference to a section of or a schedule or annexure to this Agreement;
- (g) a reference to any Party includes that Party's successors and permitted assigns;
- (h) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation, code, by-law, ordinance or statutory instrument issued under it;
- (i) a reference to writing includes a facsimile or electronic mail transmission and any means of reproducing words in a tangible and permanently visible form;
- (j) a reference to "\$" is to the currency of Canada;
- (k) the word "**including**" means "**including without limitation**" and "**include**" and, "**includes**" will be construed similarly;
- (l) headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation;
- (m) a provision of this Agreement must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement;
- (n) there will be no presumption in law or in equity that any ambiguous or doubtful expression is to be resolved in favour of any particular Party;
- (o) in the calculation of time under this Agreement, all references to "**days**" are to calendar days, except that if the time for doing an act falls or expires on a day that is not a Business Day, the time is extended to the next Business Day; and
- (p) a person "controls" another person if that person directly or indirectly possesses the power to direct or cause the direction of the management and policies of that other person, whether through ownership or voting of securities, by contract or otherwise and "controlled by" and "under common control with" have similar meanings.

1.3 **Schedules.** Each of the following schedules shall be attached to and form part of this Agreement:

Schedule A - Common Definitions

Schedule B - Contracting Protocol

Schedule C - Territory Map

Schedule D - Bridge-Seton Watershed Map

Schedule E - Lil'wat Area of Interest

2. PURPOSE AND APPLICATION

2.1 Purpose of this Agreement. The purpose of this Agreement is to provide a framework for achieving the Parties' mutual goal of respectful and effective relations with respect to the following matters arising in the Territory:

- (a) operation and maintenance of the Facilities (RA);
- (b) the planning and development of New Facilities (RA);
- (c) the Bridge River WUP;
- (d) the Bridge Seton Watershed Strategic Plan;
- (e) long term planning in respect of the generation and transmission of electricity,
- (f) emergency preparedness;
- (g) environment, fisheries, heritage, and natural resource matters as those matters relate to the Facilities (RA), New Facilities (RA), New Authorizations (RA) or Closures (RA);
- (h) business, employment, training and education opportunities in connection with the Facilities (RA), New Facilities (RA), New Authorizations (RA) or Closures (RA);
- (i) Closures (RA); and
- (j) disposal of Surplus Lands.

2.2 Application to St'át'imc.

- (a) Each reference to "St'át'imc" in this Agreement includes a reference to all of the Communities and each of the representations, covenants, obligations, acknowledgements and other agreements whatsoever of St'át'imc under this Agreement are applicable to all the Communities jointly (but not severally). The Communities shall be jointly liable to BC Hydro with respect to such covenants, obligations, acknowledgements and other agreements.

- (b) Except as otherwise specifically provided in this Agreement, each of the Communities hereby expressly authorizes the St'át'imc Authority to act on its behalf in connection with this Agreement and the transactions contemplated hereby. All decisions and actions (including the execution of any documents) made and taken by the St'át'imc Authority in connection with this Agreement and the transactions contemplated hereby will be binding upon all of the Communities jointly (but not severally). BC Hydro will be entitled to rely conclusively on the decisions made by and actions of the St'át'imc Authority in connection with this Agreement and the transactions contemplated hereby and will have no liability to one or more of the Communities in respect thereof to the extent they have relied upon such authority.
- (c) Each of the acknowledgements, covenants, representations and obligations of BC Hydro under this Agreement in favour of St'át'imc and any other rights or benefits of St'át'imc under this Agreement may only be enforced or exercised by St'át'imc, as represented by the St'át'imc Authority, and, without limiting the foregoing, except as otherwise specifically provided in this Agreement, none of the Communities will separately be entitled to take any action to enforce or exercise such acknowledgements, covenants, representations obligations, rights or benefits.
- (d) St'at'imc (including Lil'wat and each of the Participating Communities) acknowledge and agree with BC Hydro that:
 - (i) the Participating Communities and Lil'wat have made certain assertions regarding their aboriginal title and rights within the Territory and the body that is authorized to represent them with respect to aboriginal title and rights matters, including matters related to the Facilities; and
 - (ii) it is the intention of the Parties that each of the Communities, their Community Members, the Members and the St'at'imc Authority will be bound by the terms of this Agreement regardless of which group or subgroup of Members is determined to be the collective that are eligible to exercise aboriginal title or practice aboriginal rights within the Territory as aboriginal people pursuant to subsection 35(1) of the *Constitution Act, 1982* and regardless of which body is determined to represent such individuals or collectives in respect of such matters.

2.3 **Application to BC Hydro.** To the extent that BC Hydro delegates or subcontracts the performance of any of its covenants or obligations under this Agreement to its subsidiaries, contractors, subcontractors, agents or other third parties, BC Hydro shall be responsible for ensuring that such third parties satisfy such covenants or obligations.

2.4 **Non Derogation.** It is expressly understood and agreed by the Parties that nothing in the Community Settlement Agreements or the INAC Instruments derogates from, minimizes

or otherwise diminishes any of the obligations or other commitments of BC Hydro set out in this Agreement in respect of the Facilities (RA), including in respect of St'at'imc Cultural Heritage.

3. POINTS OF CONTACT

3.1 Points of Contact. Each of BC Hydro and St'at'imc:

- (a) will appoint its relations manager (the "**Relations Manager**");
- (b) will advise each other in writing as to:
 - (i) the name, address, phone number, email address and facsimile machine number of its Relations Manager; and
 - (ii) any change in the contact particulars for or identity of its Relations Manager and the effective date of such change; and
- (c) may appoint a duly qualified alternate in the place and stead of such Relations Manager upon providing written notice to the other which will set out the contact particulars for such alternate and the period during which the alternate will be acting in the place of such Relations Manager.

3.2 Communications to Relations Managers. Unless otherwise provided for under this Agreement, all communications to BC Hydro or St'at'imc required by this Agreement will be sent or otherwise copied to that Party's Relations Manager.

3.3 St'at'imc Representation. St'at'imc represents to BC Hydro that, subject to Section 3.1(c) and Section 3.7, the St'at'imc Relations Manager is, unless otherwise agreed to by the Parties, designated by St'at'imc as its point of contact.

3.4 Representations of the Communities. Each of the Communities represents to BC Hydro that, subject to Section 3.1(c) and Section 3.7, for the purposes of this Agreement, it has, unless otherwise agreed to by all of the Parties, designated the St'at'imc Relations Manager as the Community's point of contact for it hereunder.

3.5 St'at'imc Communication with Communities. St'at'imc covenants that any information communicated to the St'at'imc Relations Manager by BC Hydro will be promptly communicated by it to any Community to which such information may be relevant.

3.6 Communication to Communities and Lawful Possessors. For those activities of BC Hydro which are to occur over, on or in close proximity to, or will materially affect, a Reserve:

- (a) BC Hydro will contact directly the Directly Affected Community and will copy the information to the St'at'imc Relations Manager; and

- (b) each of the Communities hereby agree that if any information is communicated to them by BC Hydro or the St'at'imc Relations Manager that is directly relevant to any Lawful Possessor Property, then it will take reasonable steps to provide such information to the respective Lawful Possessors.

3.7 **Community Contact.** The Parties agree that the point of contact for all communications from BC Hydro to a Community under this Agreement, including all communications to a Directly Affected Community or a New TL Interested Community, will be the Band Manager or such other delegate a Community designates in writing to the Relations Managers for BC Hydro and St'at'imc.

4. GENERAL INFORMATION SHARING

4.1 **BC Hydro Information.** Pursuant to the reasonable request of the St'at'imc Relations Manager or a Directly Affected Community, BC Hydro agrees to provide in a timely manner to the St'at'imc Relations Manager or such Directly Affected Community information in its possession regarding the following:

- (a) Operation Updates;
- (b) BC Hydro capital plans and policies pertaining to the operation and maintenance of the Facilities (RA);
- (c) New Authorizations (RA);
- (d) New Facilities (RA);
- (e) Closures (RA);
- (f) Emergencies or Emergency Measures;
- (g) Events of Force Majeure;
- (h) BC Hydro aboriginal procurement initiatives or policies;
- (i) hazardous materials used or transported by BC Hydro in the Territory;
- (j) BC Hydro's environment management plans as they pertain to the Facilities (RA);
- (k) electric and magnetic fields or the effects of the transmission of electricity on human health;
- (l) implementation of the Bridge River WUP, including copies of:
 - (i) all water records submitted by BC Hydro to the Comptroller in relation thereto; and

- (ii) emergency plans filed with the Comptroller which set out BC Hydro's notification procedures for floods and other emergency events in respect of the Bridge-Seton Generation Facilities;
- (m) heritage, environment and natural resource mitigation initiatives BC Hydro has undertaken, plans to undertake or is undertaking in the Territory;
- (n) BC Hydro's long term planning activities identified in Section 11.1 of this Agreement;
- (o) health and welfare of people, fish, wildlife and habitat in the Territory;
- (p) safety matters, including emergency planning, associated with the Facilities (RA) which are of particular concern to St'át'imc, including final reports prepared by BC Hydro from time to time as a result of routine inspections of the Facilities (RA) related to public safety; and
- (q) other matters as agreed to in writing by the Parties from time to time.

4.2 **Publicly Available Information.** For greater certainty, in respect of any information requested by the St'át'imc Relations Manager or a Directly Affected Community under Section 4.1 which is available on BC Hydro's website or otherwise publicly available, the Parties agree that BC Hydro will have fulfilled its obligations under Section 4.1 in response to such request by:

- (a) in respect of information which is available on BC Hydro's website, directing the St'át'imc Relations Manager or the Directly Affected Community to the link on BC Hydro's website to such information; and
- (b) in respect of information which is otherwise publicly available, directing the St'át'imc Relations Manager or the Directly Affected Community to the location where such information is stored in the public domain.

4.3 **St'át'imc Information.** Without limiting any other provision of this Agreement and subject to any confidentiality obligations of St'át'imc or any Directly Affected Community, pursuant to the reasonable request of BC Hydro, St'át'imc and any Directly Affected Community agree to provide to BC Hydro in a timely manner information which is in their respective possession regarding the following:

- (a) St'át'imc Cultural Heritage;
- (b) heritage, environment and natural resource mitigation initiatives undertaken by St'át'imc in the Territory;
- (c) the Operation Updates;
- (d) New Authorizations (RA);

- (e) New Facilities (RA);
- (f) Emergencies or Emergency Measures;
- (g) Events of Force Majeure; and
- (h) other matters agreed to in writing by the Parties from time to time.

4.4 **Confidentiality.** Subject to any other arrangements in respect of Confidential Information made between the applicable Parties pursuant to Section 15 or Section 16, the Parties acknowledge and agree that:

- (a) information to be provided to each other under this Agreement may be Confidential Information in which case the receiving Party will make all reasonable efforts to prevent the disclosure of such Confidential Information to the public;
- (b) a Party may disclose Confidential Information received from the other Party to its principals, employees, agents, contractors and subcontractors provided however that in each such case the receiving Party uses reasonable efforts to ensure that such employees, agents, contractors and subcontractors are made aware of and comply with the confidentiality provisions of this Section 4.4,
- (c) a Party will not be considered to have breached its obligations under this Section for disclosing the Confidential Information of another Party to the extent required by law or to satisfy any legal requirement of any court proceedings or the British Columbia Utilities Commission or any other regulatory, governmental or administrative body or tribunal, including such authority acting under the *Freedom of Information and Protection of Privacy Act* of British Columbia, provided that such Party (the “**Disclosing Party**”):
 - (i) promptly upon receiving any such request and within a reasonable time before disclosure notifies the other Party of the terms and the circumstances of the requested disclosure;
 - (ii) consults with the other Party regarding the nature and scope of such request and the response or other position the Disclosing Party intends to take with respect to such request;
 - (iii) does not obstruct or interfere with the other Party’s efforts to object to, enjoin, narrow the scope of or otherwise contest the requested disclosure;
 - (iv) furnishes only information that the Disclosing Party is legally compelled to disclose; and

- (v) makes and reasonably pursues a request, that is reasonable and customary in the circumstances, for confidential treatment of the information disclosed in response to such requirement;
- (d) BC Hydro is subject to provincial freedom of information legislation;
- (e) Confidential Information provided to BC Hydro by St'at'imc or a Community or prepared jointly by the Parties in accordance with this Agreement shall not be used by BC Hydro for any purposes other than those provided for in Section 2.1 without BC Hydro, as the case may be, first obtaining the consent of St'at'imc or a Community, as applicable; and
- (f) Confidential Information provided to St'at'imc or a Community by BC Hydro or prepared jointly by the Parties in accordance with this Agreement shall not be used by St'at'imc or such Community for any purposes other than those provided for in Section 2.1 without St'at'imc or such Community, as the case may be, first obtaining the consent of BC Hydro.

4.5 Legal Obligations and Security Concerns in respect of Information Sharing. Notwithstanding any other provision of this Agreement, the requirements of BC Hydro under this Agreement to provide information to, or discuss such information with, St'at'imc or any Directly Affected Community are subject to:

- (a) any legal obligations of BC Hydro which govern the provision, disclosure or treatment of such information;
- (b) the reasonable concerns of BC Hydro that the release of certain information may create for BC Hydro an unacceptable risk regarding the security of any of the Facilities (RA) or any other facilities of BC Hydro; or
- (c) the reasonable concerns of BC Hydro that the release of certain information to St'at'imc or any Directly Affected Community without making the information publicly available to third parties would be a breach of the Standards of Conduct.

5. EMERGENCIES

5.1 Emergency Plans. The Parties will exchange and coordinate their respective emergency contacts and plans existing from time to time with the goal of maximizing the ability of the Parties to effectively respond to Emergencies.

5.2 Notice of Emergency. In the event of an Emergency, BC Hydro will provide notice of the Emergency in a timely manner to the St'at'imc Relations Manager and any Directly Affected Community which notice will include to the extent reasonably possible in the circumstances:

- (a) a description of the Emergency;

- (b) a description of the Emergency Measures BC Hydro intends to undertake; and
- (c) an estimate of the time during which the Emergency and the related Emergency Measures will continue.

5.3 **Emergency Measures.** To the extent reasonably possible given the time constraints associated with the Emergency, BC Hydro will discuss with the St'át'imc Relations Manager and any Directly Affected Community, the proposed Emergency Measures that BC Hydro intends to undertake in response to an Emergency.

5.4 **Communication During Emergencies.** In the event of an Emergency, the Relations Managers and any Directly Affected Community, or their respective delegates, will establish and maintain open and frequent communication to the extent determined necessary by the Parties.

5.5 **Impacts of Emergencies or Emergency Measures.** To the extent reasonably possible given the time constraints associated with the Emergency, BC Hydro will meet with the St'át'imc Relations Manager and any Directly Affected Community in a timely manner to discuss:

- (a) the reasonable concerns of St'át'imc or any Directly Affected Community arising as a result of the Emergency or the Emergency Measures; and
- (b) the measures which the Parties may agree to take in an effort to address or mitigate such concerns.

5.6 **Effect of Emergency on Time.** Any time period provided for in this Agreement will be extended by a period equivalent to the period of delay resulting from the Emergency.

6. **FORCE MAJEURE**

6.1 **Notice of Force Majeure.** Subject to Section 6.5, a Party will not be liable for any delay or failure to perform any of its obligations under this Agreement if as soon as possible after the beginning of the Event of Force Majeure affecting the ability of the Party to perform any of its obligations under this Agreement, it gives a notice in writing to the other Parties that complies with Section 6.2 and it otherwise complies with its obligations under this Section 6.

6.2 **Force Majeure Notice.** A notice given under Section 6.1 must to the extent reasonably possible in the circumstances:

- (a) specify the obligations the Affected Party cannot perform;
- (b) fully describe the Event of Force Majeure;
- (c) estimate the time during which the Event of Force Majeure will continue; and

- (d) specify the measures proposed to be adopted to remedy or abate the Event of Force Majeure.

6.3 **Obligation to Remedy and Mitigate.** Subject to Section 6.6, the Affected Party must take all actions that are reasonably practicable:

- (a) to remedy the Event of Force Majeure and resume performance of its obligations under this Agreement as soon as reasonably possible thereafter, acting diligently; and
- (b) to mitigate any liability suffered by the other Parties as a result of its failure to carry out its obligations under this Agreement but without any obligation to make any additional monetary compensation.

As reasonably requested from time to time by another Party, an Affected Party will meet with the other Parties to discuss the Event of Force Majeure and the steps proposed to be taken or taken to remedy and mitigate it.

6.4 **Mitigation.** Any Party which is not the Affected Party must use reasonable efforts to remove or mitigate and co-operate in the removal or mitigation of the Event of Force Majeure and its effects.

6.5 **Effect of Force Majeure on Time.** Subject to Section 6.3, any time period provided for in this Agreement will be extended by a period equivalent to the period of delay resulting from the Event of Force Majeure.

6.6 **Exceptions.** Nothing in this Section 6:

- (a) shall allow a Party to rely upon an Event of Force Majeure to relieve such Party from performing any obligation to pay money under this Agreement when due;
- (b) obliges BC Hydro or St'át'imc to:
 - (i) settle any strike, lockout, ban, limitation of work or other industrial disturbance;
 - (ii) test the validity of any Law; or
 - (iii) perform its obligations under this Agreement if the Event of Force Majeure renders performance impossible or unreasonably expensive.

7. ANNUAL OPERATION UPDATES

7.1 **Operation Update.** In respect of each BC Hydro Year, BC Hydro will prepare in accordance with this Section 7 an annual operation update (the "Operation Update") regarding:

- (a) its plans for the operation, maintenance, inspection and closures of the Facilities (RA) for the forthcoming BC Hydro Year; and
- (b) beginning with the second Operation Update:
 - (i) the results of the implementation of the Operation Update from the previous BC Hydro Year; and
 - (ii) a review of the outcomes of any environmental incidents which BC Hydro was required to report to any applicable regulatory agencies in the previous BC Hydro Year.

7.2 **Delivery of Operation Update.** An outline or draft of the Operation Update will be delivered to the St'át'imc Relations Manager by BC Hydro by March 31st of each BC Hydro Year.

7.3 **Operation Update Review.** Upon delivery of the outline of or draft Operation Update to the St'át'imc Relations Manager and before the Operation Update is presented at the Operation Update Meeting, the Relations Manager of BC Hydro will discuss with the St'át'imc Relations Manager:

- (a) those portions of the draft Operation Update which are or are likely to be directly relevant to St'át'imc;
- (b) possible refinements to the draft Operation Update based on comments received from the St'át'imc Relations Manager;
- (c) reasonable concerns raised by the St'át'imc Relations Manager regarding the specific operation and maintenance activities outlined in the draft Operation Update, including environmental concerns from a St'át'imc Knowledge perspective, and the measures which the Parties may agree to take in order to address or mitigate those concerns; and
- (d) specific operation and maintenance activities which may benefit from additional engagement with St'át'imc as agreed to by the Parties.

7.4 **Operation Update Meeting.** On or before April 30th of each year, BC Hydro will plan with the St'át'imc Relations Manager and provide notice of a meeting wherein BC Hydro will make a presentation to any interested Communities, Community Members and any other parties the Relations Managers may mutually agree to invite, of those relevant portions of the Operation Update prepared pursuant to Section 7.3 (each an "**Operation Update Meeting**").

7.5 **Notice of Operation Update Meeting.** Each Operation Update Meeting notice will include the date, time and place of the respective Operation Update Meeting and will be provided to the St'át'imc Relations Manager for distribution to the Communities and Community Members (each an "**Operation Update Meeting Notice**").

7.6 **Presentation of Operation Update.** Unless otherwise agreed to in writing by the Parties, on the date set out in its Operation Update Meeting Notice, BC Hydro will convene its Operation Update Meeting and present its Operation Update. The St'át'imc Relations Manager and the BC Hydro Relations Manager will attend the Operation Update Meeting.

7.7 **Operation Update Meeting Follow Up.** The Relations Managers (and any other parties the Relations Managers mutually agree to invite) will meet within 30 days of the Operation Update Meeting to discuss BC Hydro's response to any reasonable comments or concerns which were not addressed during the presentation of the Operation Update and then regularly thereafter as determined by the Relations Managers to discuss:

- (a) the Parties' efforts to implement the measures agreed to by the Parties under:
 - (i) Section 7.3(c) in respect of concerns arising from the Operation Update;
 - (ii) Section 8.8 in respect of the contracting, employment and training opportunities regarding the specific operation and maintenance activities outlined in the Operation Update;
- (b) BC Hydro's progress on implementing their respective operation and maintenance activities outlined in the Operation Update for that BC Hydro Year;
- (c) the remaining operation and maintenance activities outlined in the Operation Update for that BC Hydro Year which are still to be completed by BC Hydro; and
- (d) any concerns or issues affecting the relationship between the Parties or arising from the implementation of this Agreement.

7.8 **Additional Notice.** In addition to the information and general notice provided to St'át'imc by BC Hydro of the planned operation and maintenance activities of BC Hydro outlined in the Operation Update, BC Hydro will provide specific notice at least two weeks in advance of, or, in the event that it is not reasonably possible for BC Hydro to provide at least two weeks advance notice, then as soon as BC Hydro schedules, the operation and maintenance activities listed in Sections 7.8(a), 7.8(b), 7.8(c) and 7.8(d) below:

- (a) to a Community, with a copy to St'át'imc Relations Manager, in respect of operation and maintenance activities to be carried out by BC Hydro on such Community's Reserves;
- (b) to the St'át'imc Relations Manager and any Directly Affected Community where the operation and maintenance activities to be carried out in the Territory by BC Hydro involve material ground disturbance or excavation which may reasonably be expected to impact St'át'imc Cultural Heritage;

- (c) to the St'át'imc Relations Manager and a Community where:
 - (i) the St'át'imc Relations Manager or such Community has previously advised the BC Hydro Relations Manager that the operation and maintenance activities to be carried out by BC Hydro involve potential safety aspects of particular concern to St'át'imc or such Community;
or
 - (ii) in any event, there is a recognized public safety component or aspect in respect of such operation and maintenance activities; or
- (d) to the St'át'imc Relations Manager or a Community in respect of other types of activities of BC Hydro in relation to the Facilities (RA) as agreed to in writing by the Parties.

8. CONTRACTING, EMPLOYMENT, EDUCATION AND TRAINING

8.1 General Principles. BC Hydro will work cooperatively with St'át'imc to:

- (a) assist in identifying, accessing and promoting business and economic opportunities for Eligible Business Entities and Community Members that become available in the normal course of BC Hydro's business within the Territory, including general contracting and subcontracting opportunities and the supply of goods and services opportunities;
- (b) identify opportunities aimed at developing long term sustainable business opportunities for Eligible Business Entities from the operation, installation, maintenance, repair, alteration, upgrade, relocation, extension, reconstruction, replacement or the removal of the Facilities (RA) and the development and construction of any New Facilities (RA), including the New Transmission Line; and
- (c) identify opportunities in the normal course of business to enhance the relationship between BC Hydro and St'át'imc, through the application of BC Hydro's aboriginal procurement policies.

8.2 Vegetation Management. BC Hydro agrees to

- (a) make, or cause to be made, available (directly or through its contractors, subcontractors or otherwise) to Eligible Business Entities for a period of ten (10) years from the Effective Date, vegetation management Contract Opportunities in respect of the transmission Facilities (RA) worth a total aggregate amount over such ten (10) year period of \$2,000,000; and
- (b) provide a conditional, one time renewal of BC Hydro's commitment in Section 8.2(a) for a further period of ten (10) years from the expiration of the commitment in Section 8.2(a) subject to:

- (i) the extent that, in the sole opinion of BC Hydro at the time, there is a requirement and budget for such work in the Territory; and
- (ii) satisfaction, at the sole discretion of BC Hydro, acting reasonably, of the conditions set out in Section 8.10.

8.3 Bridge River WUP Programs.

- (a) BC Hydro agrees to make, or cause to be made, available (directly or through its contractors, subcontractors or otherwise) to Eligible Business Entities over a period of ten (10) years from the Effective Date a portion or all, at BC Hydro's discretion, of the following Bridge River WUP monitoring program direct award contracts worth a total aggregate amount over such ten (10) year period of approximately \$4,000,000:
 - (i) Lower Bridge River Salmon Enumeration Program;
 - (ii) Bridge-Seton Metals and Contaminant Monitoring Program;
 - (iii) Seton Lake Resident Fish Habitat and Population Monitoring Program;
 - (iv) Seton River Habitat and Fish Monitoring Program; and
 - (v) Seton Sockeye Smolt Monitoring Program.
- (b) For greater certainty, the Parties acknowledge and agree that the:
 - (i) respective contract for each of the Bridge River WUP monitoring programs identified in Section 8.3(a) will:
 - (A) be issued for the length of term stipulated in the applicable Terms of Reference as approved by the Comptroller, which term may not necessarily run for the entire ten year period from the Effective Date; and
 - (B) include an option in favour of BC Hydro to renew such contract annually based on a review by BC Hydro of the performance of the Eligible Business Entity during the preceding year, which performance review includes but may not necessarily be limited to an assessment by BC Hydro of personnel, schedule and resourcing, cost and quality of deliverables; and
 - (ii) monetary amount identified in Section 8.3(a) is merely an estimate and BC Hydro will determine through the implementation of the Bridge River WUP the actual, final amount of the contracts in respect of the Bridge River WUP monitoring programs identified in Section 8.3(a).

- (c) BC Hydro agrees to work collaboratively with St'át'imc to identify additional contracting opportunities associated with any renewal or replacement of the Bridge River WUP that may be made available by direct award to Eligible Business Entities.

8.4 **General Contracts.** The Parties acknowledge that in accordance with the terms of the Sekw'elw'as Community Settlement Agreement and the Tsal'alh Community Settlement Agreement, BC Hydro will make, or will cause to be made, available (directly or through its contractors, subcontractors or otherwise) to Sekw'elw'as and its Community Members or entities controlled by one or more of them and to Tsal'alh and its Community Members or entities controlled by one or more of them, as and when required by BC Hydro for a period of fifteen (15) years from the Effective Date, direct award general contracts worth a total aggregate amount over such fifteen (15) year period of approximately \$2,000,000, which may include:

- (a) landscaping services for the Bridge River town site lawns including lawn maintenance, shrub and tree trimming and other general yard maintenance;
- (b) snowploughing and sanding services for the Bridge River town site, Bridge River Generating Station 1 and Bridge River Generating Station 2 roadways;
- (c) maintenance services for the picnic site and boat launch area adjacent to the Bridge River Generating Station 1 powerhouse;
- (d) janitorial services for Bridge River Generating Station 1, Bridge River Generating Station 2 and the Bridge River Shop;
- (e) maintenance services for the Naxwit Picnic area;
- (f) training positions for concrete repair work training associated with the Facilities (RA) (other than transmission and substation Facilities (RA)) under an experienced contractor;
- (g) vegetation management work (not related to the transmission Facilities (RA), including substations) which is required by BC Hydro in the general area around (but outside of) the Bridge River substations;
- (h) operation services for the Buddy Car train between Bridge River and Lillooet;
- (i) heritage or environmental monitoring work for civil work planned and undertaken by or on behalf of BC Hydro in the Bridge River power site area;
- (j) general labour opportunities during periods where BC Hydro is undertaking a high degree of maintenance activities with respect to the Bridge-Seton Generation Facilities; and
- (k) security watch and patrol opportunities with respect to the Bridge-Seton Generation Facilities.

For greater certainty the Contract Opportunities referred to in this Section 8.4 are the Contract Opportunities to be made available by BC Hydro pursuant to the Sekw'elw'as Community Settlement Agreement and the Tsal'ah Community Settlement Agreement and are not in addition thereto.

8.5 **Contracting Opportunities – New Transmission Line.** As part of the New Transmission Line Process, BC Hydro, in collaboration with St'át'imc and the New TL Interested Communities, will:

- (a) use reasonable commercial efforts to identify and make, or cause to be made, available (directly or through its contractors, subcontractors or otherwise) contracting and field work opportunities to Eligible Business Entities worth a total aggregate minimum amount of \$1,000,000 in connection with the New Transmission Line, which opportunities may include:
 - (i) assessment fieldwork;
 - (ii) right of way clearing in the Territory;
 - (iii) construction;
 - (iv) initial prescriptions relating to vegetation maintenance or vegetation management;
 - (v) road work;
 - (vi) operation of construction camps;
 - (vii) environmental monitors;
 - (viii) heritage monitors;
 - (ix) training opportunities that may be available to St'át'imc; and
 - (x) heavy equipment;
- (b) explore the possibility of further contracting and field work opportunities in connection with the New Transmission Line; and
- (c) weight, at a minimum of 7.5 percent, the degree of Eligible Business Entities' participation contained in any proponent's proposal in response to any requests for proposals or tenders issued by BC Hydro as part of any procurement process relating to the New Transmission Line other than requests for proposals or tenders issued by BC Hydro related to the New Transmission Line which are for the procurement of capital equipment or goods or specialized engineering or design services.

8.6 **Contracting Opportunities – Relocation of 60L20.** In connection with the relocation of the existing 60L20 transmission line as contemplated by Section 7 of the St'at'imc (PC) Settlement Agreement, BC Hydro, in collaboration with St'at'imc, Xaxli'p and Xwisten will use reasonable commercial efforts to identify and make available (directly or through its contractors, subcontractors or otherwise) general contracting and field work opportunities to Eligible Business Entities, which opportunities may include:

- (a) assessment fieldwork;
- (b) right of way clearing within the Territory;
- (c) construction;
- (d) road work;
- (e) training opportunities that may be available to St'at'imc;
- (f) work involving operation of heavy equipment;
- (g) environmental monitors;
- (h) heritage monitors; and
- (i) removal of existing 60L20 transmission line and restoration of the existing right of way area for 60L20 transmission line.

8.7 **Contracting Opportunities – Grid Connection.** St'at'imc hereby acknowledge and confirm that, as of the Effective Date, BC Hydro has, in respect of the construction of the Grid Connection Works, awarded to Eligible Business Entities contracts worth a total aggregate amount of approximately \$1,200,000 in the following areas:

- (a) right of way clearing for the distribution line;
- (b) general construction and site preparation work;
- (c) heritage monitors;
- (d) environmental monitors;
- (e) flag persons;
- (f) security; and
- (g) first aid responders.

8.8 **Contracting Opportunities – Operations Update.** As part of the annual Operations Update, BC Hydro will discuss with the St'at'imc Relations Manager and any Directly Affected Communities possible contracting, employment, education or training opportunities for Eligible Business Entities and/or Community Members regarding the

specific operation and maintenance activities outlined in the draft Operation Update and the measures which the Parties may agree to take to act upon those opportunities;

- 8.9 **Contracting Opportunities – Environmental Management Plans.** BC Hydro will discuss with the St'át'imc Relations Manager and any Directly Affected Communities possible contracting opportunities for Eligible Business Entities or possible employment opportunities for Members regarding the preparation of BC Hydro's written environmental management plans referred to in Section 13.2, provided however that BC Hydro will not be obliged in any event to award contracting opportunities to Eligible Business Entities or employment opportunities to Members in respect of such environmental management plans where the Eligible Business Entities or Members do not meet the qualifications or standards of BC Hydro reasonably required in relation to such environmental management plans.
- 8.10 **Conditions Applicable to Award of Contracts.** BC Hydro's obligations to award, or cause to be awarded, contracts to Eligible Business Entities under Sections 8.2 to and including 8.9 are subject to the following:
- (a) the Eligible Business Entity must agree that all contract work will be performed under the normal terms and conditions of a specific contract with BC Hydro or its contractors or subcontractors, as the case may be, executed for that component of the work;
 - (b) the Eligible Business Entity must submit to BC Hydro or its contractors, as the case may be, a written proposal for the work to be performed in a format to be approved by BC Hydro or its contractors or subcontractors, as the case may be, and which includes at a minimum the information required to allow BC Hydro or its contractors or subcontractors, as the case may be, to determine whether such proposal meets the conditions outlined in Sections 8.10(c) to and including 8.10(f);
 - (c) the Eligible Business Entity submitting a proposal must be fully qualified to BC Hydro's standards to perform the work contemplated;
 - (d) the proposal submitted by the Eligible Business Entity with respect to the work must be, in the reasonable opinion of BC Hydro or its contractors or subcontractors, as the case may be, competitive to other arms-length bids as to cost, quality, reliability and deliverability of goods and services and the budget and schedule requirements in connection with such work;
 - (e) any Eligible Business Entity which is awarded a contract must comply with all applicable legal requirements, including registration under the Workers Compensation Act, occupational health and safety regulation, and any withholding and payment requirements under any applicable taxation statutes;
 - (f) the Eligible Business Entity must not have a history of safety and/or environmental incidents or non-performance or sub-standard performance

which would be unacceptable to BC Hydro or its contractors, as the case may be;

- (g) nothing in this Section 8 precludes an Eligible Business Entity from bidding competitively on any other or additional contract work tendered by BC Hydro or its contractors or subcontractors from time to time or precludes BC Hydro or its contractors or subcontractors from awarding additional or other direct award contracts to Eligible Business Entities at any time, including direct award of general, vegetation management and other contracts;
- (h) BC Hydro's obligation to make available contract opportunities as provided for in this Section 8 is subject to there being funds available for such contract opportunities in BC Hydro's budgets relating to the Facilities (RA);
- (i) BC Hydro and St'át'imc agree to comply with the contracting protocol set out in Schedule B in respect of the Contract Opportunities identified in Sections 8.2 through to and including Section 8.6; and
- (j) each Contracting Opportunity made available to Eligible Business Entities after December 17th, 2010 by BC Hydro or its contractors or subcontractors pursuant to this Section 8 will be counted towards the minimum aggregate contract values to be offered by BC Hydro under this Section 8, regardless of whether Eligible Business Entities:
 - (i) provide any responses to the Contract Opportunities within the Contract Response Period established by BC Hydro or its contractors or subcontractors, acting reasonably;
 - (ii) are not awarded the contracts relating to such contract opportunities by BC Hydro or its contractors or subcontractors, as the case may be, as a result of BC Hydro or its contractors or subcontractors not being satisfied, acting reasonably, with the terms of the proposals received by BC Hydro or its contractors or subcontractors; or
 - (iii) complete the performance of the contract work as provided for in the Contract Opportunities, whether as a result of a default or otherwise, except to the extent that the non-performance of the contract work occurs due to fire, floods, earthquake, storm, slides, strikes, and other such events beyond the reasonable control of the Eligible Business Entities.

8.11 Education and Training

- (a) BC Hydro and the St'át'imc (PC) agree to use reasonable efforts to conclude an agreement within one year of the Effective Date (or such other date that is agreed to in writing by the Parties) on an education and training program for the Community Members of the Participating Communities (the "**Education and Training Program**").

- (b) The Education and Training Program will:
 - (i) be a joint program of BC Hydro and the St'at'imc (PC) with accountability for the development and implementation of the Education and Training Program being shared equally between BC Hydro and the St'at'imc (PC);
 - (ii) have as its objectives:
 - (A) the maximization of the employment of Community Members of the Participating Communities at the Bridge-Seton Generation Facilities in all employment categories, including employment in the areas of management and engineering; and
 - (B) the development and improvement of the capacity of Community Members of the Participating Communities to work on contracts related to the Facilities (RA);
 - (iii) continue for a period of twenty years from, as the case may be, either:
 - (A) the first Anniversary; or,
 - (B) the date upon which BC Hydro and the St'at'imc (PC) conclude the agreement in respect of the Education and Training Program;
 - (iv) focus on specific education and training requirements for developing the capacity of Community Members of the Participating Communities to fill employee and contracting positions relating to the Facilities (RA) and would include elements directed at:
 - (A) high school curriculum and retention; and
 - (B) post-secondary education and training;
 - (v) provide for apprenticeship opportunities with BC Hydro provided there are both sufficient operational requirements within BC Hydro and Community Members of the Participating Communities available with the necessary pre-qualifications;
 - (vi) take reasonable measures to address elements of the cultures within BC Hydro and St'at'imc that may inhibit the achievement of the desired objectives of the Education and Training Program;
- (c) Provided BC Hydro and the St'at'imc (PC) are able to agree on the terms and conditions of the Education and Training Program (including resources and funding), BC Hydro and the St'at'imc (PC) will:

- (i) establish a committee (the “**Education and Training Program Committee**”) which will:
 - (A) consist of equal representation from BC Hydro and the St’at’imc (PC);
 - (B) meet on a regular basis as determined by the Education and Training Program Committee;
 - (C) oversee and guide the development and implementation of the Employment and Training Program;
 - (D) provide direction as necessary to the Education and Training Program Manager; and
 - (E) report annually to the Steering Committee on the progress made in implementing the Education and Training Program.
- (ii) appoint an individual (the “**Education and Training Program Manager**”) who will:
 - (A) be responsible for the implementation of the Education and Training Program; and
 - (B) report regularly to the Education and Training Program Committee on the progress of implementing the Education and Training Program;

and, if deemed appropriate, replace such individual from time to time;

- (d) Nothing in this Section 8.11 precludes a Member from participating in any other education or training initiatives that BC Hydro may have in place from time to time.

9. IMPLEMENTATION AND GOVERNANCE

9.1 **Meetings of the Principals.** The Principals of BC Hydro and St’at’imc will, at their own expense, meet at least once per year until the tenth (10th) Anniversary and thereafter as agreed to by the Principals to review and determine ways to improve the implementation of this Agreement, the St’at’imc (PC) Settlement Agreement and the Certainty Provisions Agreement, including giving consideration to any amendments proposed by any of the Parties.

9.2 **Establishment of Steering Committee.** BC Hydro and St’at’imc will establish the Steering Committee which will consist of no more than 3 BC Hydro representatives and no more than 3 St’at’imc representatives (no greater than an aggregate of 6 representatives). If a position on the Steering Committee is open for any reason, the Party whose representative formerly occupied such position may appoint a replacement

to fill the vacancy. BC Hydro and St'at'imc may remove and replace their respective representatives on the Steering Committee at any time by written notice to the other Party. The Parties may:

- (a) from time to time and by unanimous agreement in writing of the Principals expand the number of representatives on the Steering Committee; and
- (b) at any time after the 10th Anniversary and by agreement in writing of the Parties, dissolve the Steering Committee with no further obligation on the part of the Parties to continue to perform the role or functions of the Steering Committee set out in Section 9.3 and Stage 1 of Section 20.4 which obligations will cease to exist upon dissolution of the Steering Committee by the Parties.

9.3 **Responsibilities.** The Steering Committee is responsible for exercising the duties and functions set out in Stage 1 of Section 20.4 and reviewing, evaluating, reporting and providing recommendations to the Principals on an annual basis or as otherwise agreed by the Steering Committee on:

- (a) the implementation of this Agreement, the Certainty Provisions Agreement and the St'at'imc (PC) Settlement Agreement, including any concerns or issues arising from the implementation thereof and any recommended amendments to this Agreement and the St'at'imc (PC) Settlement Agreement;
- (b) on the fifth (5th) Anniversary and thereafter every ten years (unless otherwise agreed to in writing by the Parties), the work of the Steering Committee and the effectiveness of this Agreement in achieving the Parties mutual objective of facilitating an effective relationship between the Parties;
- (c) the effectiveness of the Implementation Manager and Relations Manager positions in implementing this Agreement and the St'at'imc (PC) Settlement Agreement;
- (d) the development and implementation of the Bridge Seton Watershed Strategic Plan, including considering coordination of mitigation and enhancement initiatives as set out therein with those projects set out in the Bridge River WUP, BCRP or other BC Hydro mitigation or monitoring initiatives within the Territory;
- (e) the status of the New Transmission Line, until the initial commencement of operation of the New Transmission Line;
- (f) any recommendations received from the Implementation Managers, the Relations Managers or any subcommittee or working group of the Steering Committee;

- (g) the Contracting Opportunities identified in Section 8, including progress with respect to:
 - (i) capacity development amongst the Community Members; and
 - (ii) Eligible Business Entities obtaining business and contracting opportunities from BC Hydro;
- (h) developing and implementing the Education and Training Program set out in Section 8.11, including reporting on the success of Community Members in obtaining employment from BC Hydro, and based on the review of the implementation of the Education and Training Program, making any adjustments to the Education and Training Program which are agreed to in writing by the Principals;
- (i) any proposed amendments, replacements or renewals of the Bridge River WUP; and
- (j) the exchange of information between the Parties in respect of BC Hydro's, St'at'imc's and the St'at'imc (PC)'s obligations under this Agreement, the Certainty Provisions Agreement and the St'at'imc (PC) Settlement Agreement.

For greater certainty, it is acknowledged and agreed that while the Steering Committee will consider and may recommend amendments to this Agreement, the St'at'imc (PC) Settlement Agreement or the Certainty Provisions Agreement it does not have the power to make any amendments to the terms of such Agreements or waive any compliance by a Party of its rights or obligations hereunder or thereunder.

9.4 **Meetings.** Unless otherwise agreed by the Steering Committee, the Steering Committee shall meet at least once every six months until the tenth (10th) Anniversary and thereafter as otherwise determined by the Steering Committee. Meeting agendas, dates, and locations will be established in advance by agreement of the Steering Committee. Each of the members of the Steering Committee will use reasonable efforts to be available for and attend all scheduled meetings. If for any reason a Steering Committee member is unable to attend a scheduled meeting, that member will use reasonable efforts to provide written notice to the other Steering Committee members of their unavailability in advance of that meeting. The quorum required for meetings of the Steering Committee is 2 from BC Hydro and 2 from St'at'imc. If a quorum is not present at any scheduled meeting then the Steering Committee will reschedule such meeting.

9.5 **Decisions and Recommendations.**

- (a) Any decision or recommendation the Steering Committee is required to make in connection with the matters set out in Section 9.3 must be unanimous amongst the members of the Steering Committee in attendance at such meeting of the Steering Committee at which such decision or recommendation of the Steering Committee is made.

- (b) The Steering Committee must document all such decisions and recommendations in writing, keep a copy of such documentation for a period of 7 years from the date of such decision or recommendation and provide a copy of such documentation to the Principals of each of the Parties.
- (c) If the members of the Steering Committee are unable to unanimously agree upon a decision or recommendation, then, upon request of the Steering Committee, the Principals will meet with the members of the Steering Committee within 14 days of such request to assist the Steering Committee in reaching consensus in respect of such decision or recommendation.

9.6 **Costs and Staffing.** BC Hydro and St'át'imc may, at its sole discretion and at its own cost and expense, bring staff and advisors (including the Implementation Managers and the Relations Managers) to any meetings of the Steering Committee. Each Party will bear its own costs incurred in connection with the Steering Committee, Implementation Manager, Relations Manager, subcommittees or working groups. If any of the Parties intend to bring their legal counsel to a meeting of the Steering Committee they will provide reasonable advance notice in writing to the other Parties.

9.7 **Implementation Managers.** From the period from the Effective Date until the tenth (10th) Anniversary and thereafter as agreed to in writing by the Parties, BC Hydro and St'át'imc will designate its respective Implementation Manager each of whom will be responsible for overseeing the implementation of those decisions or recommendations received from the Steering Committee or the Principals which are applicable to it.

9.8 **Subcommittees and Working Groups.** The Steering Committee will have the ability to establish subcommittees or working groups as required from time to time to carry out its responsibilities under Section 9.3 and to establish or amend the terms of reference for such subcommittees or working groups, provided such are not inconsistent with or contrary to the terms of this Agreement, the St'át'imc (PC) Settlement Agreement or the Certainty Provisions Agreement.

9.9 **Policies and Procedures.** From time to time the Steering Committee may establish policies and procedures which assist it in carrying out its responsibilities under Section 9.3.

10. CULTURAL HERITAGE

10.1 **St'át'imc Cultural Heritage.** If BC Hydro is, in respect of any of the Facilities (RA), planning or undertaking operation and maintenance activities involving disturbance or excavation of the ground in close proximity to St'át'imc Cultural Heritage that BC Hydro has knowledge of and such St'át'imc Cultural Heritage may suffer impacts as result of those operation and maintenance activities, then BC Hydro will work with St'át'imc and any Directly Affected Community to design and implement appropriate measures to either avoid or mitigate such impacts.

10.2 **Locating St'át'imc Cultural Heritage.** If:

- (a) in the course of undertaking operation and maintenance of the Facilities (RA) which involves disturbance or excavation of the ground BC Hydro locates or otherwise becomes aware of St'át'imc Cultural Heritage, then BC Hydro will:
 - (i) if the St'át'imc Cultural Heritage may suffer impacts, stop such operation and maintenance activities immediately (provided that an Emergency does not exist which requires that such work continue) and before recommencing work at the site work with St'át'imc and any Directly Affected Community to design and implement (within a reasonable period of time taking into account the schedule for such work) appropriate measures to either avoid or mitigate impacts the St'át'imc Cultural Heritage is likely to suffer, as determined by the Parties, as a result of such operation and maintenance activities;
 - (ii) not move or otherwise further disturb the St'át'imc Cultural Heritage;
 - (iii) in the case where it is suspected that the St'át'imc Cultural Heritage includes human remains, ensure that such remains are covered, protected and treated with dignity and respect and notify the RCMP or local policing authority, including, as applicable, the St'át'imc Tribal Police, of the location of such St'át'imc Cultural Heritage;
 - (iv) record the location of the St'át'imc Cultural Heritage (either through GPS if possible or otherwise by the use of a flag or marker); and
 - (v) notify the St'át'imc Relations Manager and any Directly Affected Community of the location of such St'át'imc Cultural Heritage; and
- (b) St'át'imc locates or otherwise becomes aware of St'át'imc Cultural Heritage in close proximity to the Facilities (RA), then St'át'imc will, within 30 days of such discovery, advise BC Hydro's Relations Managers of the location and nature of such St'át'imc Cultural Heritage.

10.3 Distribution Extensions. For any proposed extension of the existing distribution lines in the Territory to be constructed by BC Hydro requiring disturbance or excavation of the ground which is reasonably likely to impact St'át'imc Cultural Heritage, BC Hydro will:

- (a) provide, to the extent reasonably possible, the St'át'imc Relations Manager and any Directly Affected Community with at least 14 days notice of such extension;
- (b) upon request, meet with the St'át'imc Relations Manager and any Directly Affected Community or alternate St'át'imc representative designated in writing by St'át'imc for this purpose to determine whether any St'át'imc Cultural Heritage would in fact suffer impacts as a result of such extension; and

- (c) work with St'at'imc and any Directly Affected Community to design and implement (within a reasonable period of time taking into account the schedule for such work) appropriate measures to either avoid or mitigate such impacts to such St'at'imc Cultural Heritage, as determined by the Parties, as a result of such distribution extension.

10.4 **Mitigation Measures.** The mitigation measures agreed to by the Parties in Sections 10.1, 10.2(a)(i) and 10.3(c) will be undertaken in a manner reasonably agreed to by the Parties and will include the following:

- (a) consideration of applicable St'at'imc Knowledge;
- (b) generally acceptable professional methods and standards for mitigating impacts resulting from the operation and maintenance of the Facilities (RA);
- (c) the use of a readily available heritage monitor designated in writing by St'at'imc or, if the applicable Parties have proposed the use of more than one heritage monitor, then as agreed to by the Parties;
- (d) measures required by applicable Laws; and
- (e) implementation at BC Hydro's cost.

10.5 **Reports.** The Parties agree to exchange any reports or summaries related to the mitigation measures undertaken by the Parties pursuant to Sections 10.1, 10.2(a)(i) and 10.3(c).

11. LONG TERM PLANS

11.1 **Review of Long Term Plans.** BC Hydro agrees to meet annually with St'at'imc (which meeting may, with the agreement of the Parties, be held in conjunction with the Operation Update) to discuss BC Hydro's long term plans, to the extent such long term plans exist or are being developed, relating to the following matters in the Territory:

- (a) operation and maintenance of the Facilities (RA);
- (b) BC Hydro's long-term capital plans in respect of the Facilities;
- (c) New Authorizations (RA);
- (d) New Facilities (RA);
- (e) transmission system development;
- (f) BC Hydro's calls for power, including any other related plans of BC Hydro in respect of independent power production;
- (g) environmental management systems and environmental performance; and

- (h) proposed Closures (RA).

12. BRIDGE SETON WATERSHED STRATEGIC PLAN

12.1 Development of Bridge Seton Watershed Strategic Plan. Within 3 years of the Effective Date (or some other date agreed to in writing by BC Hydro and St'at'imc), the Steering Committee or any designated sub-committee or working group will develop the initial Bridge Seton Watershed Strategic Plan as follows:

- (a) review existing or proposed environment or natural resource mitigation projects of St'at'imc, BCRP funded projects and the physical works projects and monitoring programs ordered under the Bridge River WUP within the Bridge-Seton Watershed as identified on the map attached as Schedule D
- (b) prepare a draft Bridge Seton Watershed Strategic Plan which coordinates the projects and programs identified in Section 12.1(a) so as to achieve synergies and cost savings and avoid duplication of efforts in respect thereof;
- (c) invite representatives from the Federal Department of Fisheries and Oceans and the British Columbia Ministry of Environment, to review and discuss the proposed Bridge Seton Watershed Strategic Plan; and
- (d) recommend the draft Bridge Seton Watershed Strategic Plan to the Principals of BC Hydro and St'at'imc.

13. ENVIRONMENTAL MANAGEMENT PLANS AND ENVIRONMENTAL PERFORMANCE

13.1 Exchange of Environmental Management Plans Generally. The Parties agree to regularly exchange information regarding their respective environmental management plans, policies and practices, including any environmental best management practices that are internal to and implemented by BC Hydro.

13.2 Provision of Specific Environmental Management Plans. If, in the course of planning or undertaking operation and maintenance activities in respect of the Facilities (RA), BC Hydro determines that a written environmental management plan is justified or required for such particular project or activity, then BC Hydro will provide a copy of that written environmental management plan for the information of the St'at'imc Relations Manager and any Directly Affected Community if the activity or project is taking place on the Reserves of such Directly Affected Community.

13.3 Review. At the specific request of the St'at'imc Relations Manager or a Directly Affected Community with respect to a specific environmental management plan provided by BC Hydro under Section 13.2, BC Hydro will meet with the St'at'imc Relations Manager or the Directly Affected Community to respond to questions or concerns regarding such environmental management plan.

13.4 **Notice to St'át'imc of Environmental Incidents.** BC Hydro will, as soon as reasonably possible, provide notice to St'át'imc of any environmental incidents resulting from their respective operations and occurring in the Territory which:

- (a) BC Hydro is required to report to an applicable regulatory agency; or
- (b) create a material risk of harm to people, fish, wildlife or the environment.

13.5 **Provision of Reports Pertaining to Environmental Incidents.** If BC Hydro is required to submit a written investigative report to an applicable regulatory agency in respect of an environmental incident occurring in the Territory and resulting from their respective operations, BC Hydro will:

- (a) provide St'át'imc with a copy of such written report at the same time it is submitted to the applicable regulatory agency; and
- (b) upon the reasonable request of St'át'imc, meet with St'át'imc to discuss the incident, any St'át'imc concerns and any mitigation efforts that BC Hydro is considering or is undertaking.

14. AMENDMENTS, RENEWALS OR REPLACEMENTS OF THE BRIDGE RIVER WUP, WATER LICENSES OR EASEMENTS

14.1 **Notice to St'át'imc.** If, during a BC Hydro Year, BC Hydro is contemplating a replacement, renewal or amendment to the Bridge River WUP Order, a Water Licence for the Bridge River Generation Facilities or an Easement, then BC Hydro will provide St'át'imc with advance notice (either through the Operation Update if possible or, if not, to the St'át'imc Relations Manager) as soon as reasonably possible and in any event before BC Hydro proceeds with seeking such replacement, renewal or amendment and with reasonably sufficient time for St'át'imc to review and consider and for the Parties to discuss the proposed changes as provided for in Section 14.2 and Section 14.3.

14.2 **Discussion of Proposed Changes.** Upon BC Hydro providing the notice referred to in Section 14.1 to St'át'imc and if requested by the St'át'imc Relations Manager within 30 days of receipt of such notice, BC Hydro's Relations Manager will meet with the St'át'imc Relations Manager to discuss the proposed changes referred to in the notice and the implications related thereto, including any concerns St'át'imc may have in respect of such changes.

14.3 **St'át'imc Concerns.** BC Hydro agrees to consider any concerns that may be raised by the St'át'imc Relations Manager in respect of the replacement, renewal or amendment proposed by BC Hydro under Section 14.1, and in particular, St'át'imc's concerns as to whether the proposed replacement, renewal or amendment is, in the case where the proposed replacement, renewal or amendment is being sought by BC Hydro in connection with a new generation or transmission facility or an upgrade to or reconstruction or replacement of any of the existing generation or transmission facilities, sufficiently material so as to potentially result in a New Facility (RA).

14.4 **Material Amendments.** For greater certainty it is acknowledged and agreed by the Parties that:

- (a) nothing in this Section 14 precludes St'at'imc from participating in any review of the Bridge River WUP in accordance with Section 4.5 of the Certainty Provisions Agreement;
- (b) the provisions of Section 15 will apply in respect of any material amendments to a Water Licence or Easement required in connection with a New Facility (RA);
- (c) an amendment to or renewal or replacement of the Bridge River WUP which results in a change in the terms and conditions of the Bridge River WUP or other Lawful orders made after the Effective Date by the Comptroller in respect of the Bridge-Seton Generation Facilities that would allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime has not been released by St'at'imc under the Certainty Provisions Agreement; and
- (d) any amendments to a Water Licence or Easement that do not qualify as a New Facility (RA) and any amendment to or renewal or replacement of the Bridge River WUP Order or other orders made after the Effective Date by the Comptroller in respect of the Bridge-Seton Generation Facilities which do not result in a change in the terms and conditions of the Bridge River WUP Order or other operating conditions that would allow BC Hydro to operate the Bridge-Seton Generation Facilities in a materially different manner from the Bridge-Seton Operating Regime have been released by St'at'imc under the Certainty Provisions Agreement and there are no further obligations on the part of BC Hydro in respect of such amendments, renewals or replacements.

15. NEW FACILITIES (RA)

15.1 **Process.** If BC Hydro wishes to construct a New Facility (RA) in the Territory, then BC Hydro will provide notice of such New Facility (RA) to the St'at'imc Relations Manager and any Directly Affected Community and the Parties will undertake the following process (the "**New Facility (RA) Process**"):

- (a) **Representation of Communities.** Each Community other than a Directly Affected Community, authorizes the St'at'imc Authority to represent it in carrying out any of its obligations relating to a New Facility (RA), including:
 - (i) the New Facility (RA) Process;
 - (ii) any other process required by any provincial or federal regulatory authorities in respect of the authorization, construction and operation of the New Facility (RA), including any environmental assessment process; and

- (iii) any reasonable St'át'imc review process which St'át'imc consider applicable to the New Facility (RA), including Section 15.1(b)(iv) ("St'át'imc Assessment");
- (b) **Capacity Funding.** BC Hydro will provide reasonable capacity funding to St'át'imc and any Directly Affected Community in an amount agreed to by BC Hydro with each of St'át'imc and the Directly Affected Communities respectively and such capacity funding will be provided for the sole purpose of financially assisting St'át'imc and the Directly Affected Communities with the implementation of the New Facility (RA) Process, including:
- (i) their respective participation in the New Facility (RA) Process;
 - (ii) their respective participation in any provincial or federal regulatory proceedings applicable to the authorization, construction or operation of the New Facility (RA);
 - (iii) any St'át'imc Assessment; and
 - (iv) the preparation of any reasonable St'át'imc assessments, studies, reports or summaries related to the New Facility (RA).
- (c) **Exchange of Information.** BC Hydro, St'át'imc and the Directly Affected Communities will, subject to any confidentiality obligations under any confidentiality agreements that may be negotiated by the Parties at such time, exchange information with respect to the New Facility (RA), including:
- (i) construction and design information, including staging;
 - (ii) potential location or routing options;
 - (iii) studies and assessments completed by or in the possession and control of BC Hydro, St'át'imc or the Directly Affected Communities; and
 - (iv) any publicly-available information relating to the New Facility (RA) which may assist the Parties in identifying any concerns with the New Facility (RA).
- (d) **Review Process.** Upon reaching the agreement of the capacity funding arrangements referenced in Section 15.1(b), St'át'imc and the Directly Affected Communities will:
- (i) review and consider any information received in relation to the New Facility (RA) and provide the Relations Manager of BC Hydro (or an alternate point of contact if so specified by the BC Hydro for the purposes of the New Facility (RA)), as the case may be, with feedback and comment, including the applicability of any St'át'imc Assessment, in a timely manner;

- (ii) participate in a timely manner in any:
 - (A) provincial or federal regulatory processes, including any environmental assessment process required in connection thereto, in accordance with any timelines prescribed by any provincial or federal process;
 - (B) meetings with BC Hydro at mutually agreed upon locations and intervals; and
 - (C) St'át'imc Assessment;

associated with the New Facility (RA) and to identify any New Facility (RA) Impacts; and

- (iii) identify and reasonably assess any New Facility (RA) Impacts and prepare and deliver to BC Hydro any studies and reports related thereto, in sufficient form and detail to enable BC Hydro to understand and assess such New Facility (RA) Impacts, provided that BC Hydro will be permitted to share this information with any provincial or federal regulatory bodies or authorities having jurisdiction in respect of the New Facility (RA) unless otherwise agreed to by St'át'imc, any Directly Affected Community and BC Hydro, as the case may be, pursuant to the terms of any confidentiality agreements that may be negotiated at such time.

- (e) **Coordination of Reviews.** St'át'imc will coordinate any applicable St'át'imc Assessment and the Directly Affected Communities will coordinate their respective assessments applicable to such New Facility (RA), to the extent such assessments exist, with the New Facility (RA) Process and will use all reasonable efforts to adhere to all time frames set by any provincial or federal regulatory processes to which the New Facility (RA) is subject. To the extent there is flexibility in the timing of any provincial or federal regulatory processes and if BC Hydro has any input into such timing, BC Hydro will consider, acting reasonably and taking into account BC Hydro's schedule for the New Facility (RA), any requests from St'át'imc or any of the Directly Affected Communities to seek modifications to the proposed timing of such processes to make them complementary with the St'át'imc Assessment or any review processes established by any of the Directly Affected Communities.

- (f) **Mitigation Strategies.** BC Hydro will work with St'át'imc and the Directly Affected Communities in an effort to identify strategies to avoid, mitigate or manage the New Facility (RA) Impacts, including:

- (i) incorporating St'át'imc input, including a consideration of St'át'imc Knowledge, into the development of the New Facility (RA); and

- (ii) identifying potential benefits, including contracting, business, employment and training opportunities for St'at'imc in respect of the New Facility (RA).
- (g) **Agreement Regarding New Facility (RA).** BC Hydro, St'at'imc and the Directly Affected Communities will work in good faith and use reasonable efforts in attempting to reach agreement on the terms and conditions upon which St'at'imc and the Directly Affected Communities are prepared to provide BC Hydro with support for the New Facility (RA).
- (h) **Legal Remedies.** If St'at'imc, any of the Directly Affected Communities and BC Hydro are unable to reach agreement on the terms and conditions upon which St'at'imc or such Directly Affected Communities are prepared to provide BC Hydro with their support for the New Facility (RA), then the Parties agree that:
 - (i) BC Hydro shall be free to pursue its own course of action (including all legal remedies available in law) in respect of such New Facility (RA);
 - (ii) St'at'imc and such Directly Affected Communities, as the case may be, shall each be free to pursue its own course of action (including all legal remedies available in law) in respect of such New Facility (RA); and
 - (iii) except for Disputes as to whether a proposed facility is a New Facility (RA) or not, the Dispute Resolution provisions of this Agreement are not applicable in that instance unless otherwise agreed to in writing by the Parties.
- (i) **New Facility (RA) on Reserve.** With respect to a New Facility (RA) to be located wholly or partially on a Reserve of a Directly Affected Community, the Parties agree that:
 - (i) the Directly Affected Community will participate in the New Facility (RA) Process to ensure that their concerns regarding their Reserves are addressed;
 - (ii) BC Hydro will need to obtain from the Directly Affected Community its consent before BC Hydro can proceed with that portion of the New Facility (RA) to be located on such Directly Affected Community's Reserves; and
 - (iii) BC Hydro will need to obtain the consent of any Lawful Possessors for that portion of the New Facility (RA) located on Lawful Possessor Property directly from such Lawful Possessors.

16. NEW TRANSMISSION LINE PROCESS

16.1 **New Transmission Line.** Upon the occurrence of the Triggering Event, the Parties agree to follow the New Transmission Line Process outlined below:

- (a) **Representation of Communities.** Each Community, other than a New TL Interested Community, authorizes the St'át'imc Authority to represent it in carrying out any of its obligations relating to the New Transmission Line including:
 - (i) the New Transmission Line Process set out in this Section;
 - (ii) any other process required by any provincial or federal regulatory authorities in respect of the New Transmission Line, including any environmental assessment process; and
 - (iii) any reasonable St'át'imc review process which St'at'imc consider applicable to the New Transmission Line;
- (b) **Capacity Funding:** BC Hydro will provide reasonable capacity funding to St'át'imc Authority and the New TL Interested Communities, in an amount agreed to by BC Hydro, St'át'imc Authority and the New TL Interested Communities respectively and such capacity funding will be provided for the sole purpose of financially assisting St'át'imc Authority and the New TL Interested Communities with:
 - (i) participation in the New Transmission Line Process;
 - (ii) participation in any provincial or federal regulatory proceedings applicable to the authorization, construction or operation of the New Transmission Line; and
 - (iii) preparation of any reasonable St'át'imc assessments, studies, reports or summaries related to impacts (other than socio-economic impacts) that are caused by or attributable to the New Transmission Line.
- (c) **Review Process:** Upon agreement of the capacity funding arrangements referenced in Section 16.1(a) St'át'imc and the New TL Interested Communities will:
 - (i) review and consider any information received in relation to the New Transmission Line and provide BC Hydro with feedback and comment in a timely manner;
 - (ii) participate in a timely manner in any:
 - (A) provincial or federal regulatory processes, including any environmental assessment process required in connection thereto,

in accordance with any timelines prescribed by any provincial or federal process; and,

- (B) meetings with BC Hydro at mutually agreed upon locations and intervals;

associated with the New Transmission Line and to identify any impacts (other than socio-economic impacts) caused by or attributable to the New Transmission Line, provided that St'át'imc and the New TL Interested Communities shall ensure that during such participation they do not in any way breach any of their obligations under Sections 2.7 and 5.4 of the Certainty Provisions Agreement; and

- (iii) identify and reasonably assess any impacts (other than socio-economic impacts) caused by or attributable to the New Transmission Line and prepare and deliver to BC Hydro any studies and reports related to such impacts, in sufficient form and detail to enable BC Hydro to understand and assess such impacts, provided that BC Hydro will be permitted to share this information with any provincial or federal regulatory bodies or authorities having jurisdiction in respect of the New Transmission Line unless otherwise agreed to by St'át'imc, any New TL Interested Communities and BC Hydro, as the case may be, pursuant to the terms of any confidentiality agreement that may be negotiated at such time.
- (d) **Coordination of Reviews.** If St'át'imc or any of the New TL Interested Communities have developed their own review process which St'át'imc or any of the New TL Interested Communities consider applicable to the New Transmission Line, then St'át'imc and the New TL Interested Communities will coordinate such processes with the New Transmission Line Process and will use reasonable efforts to adhere to the time frames set by any provincial or federal regulatory processes to which the New Transmission Line is subject. To the extent there is flexibility in the timing of any provincial or federal regulatory processes and if BC Hydro has any input into such timing, BC Hydro will consider, acting reasonably and taking into account BC Hydro's schedule for the New Transmission Line, any requests from St'át'imc or any of the New TL Interested Communities to seek modifications to the proposed timing of such processes to make them complementary with the review processes established by St'át'imc or any of the New TL Interested Communities.
- (e) **Mitigation Strategies.** The Parties will work together to identify strategies to avoid, mitigate or manage the adverse impacts (other than socio-economic impacts which impacts have been accommodated by the Settlement Agreements) of the New Transmission Line. BC Hydro will work to mitigate such identified impacts (including mitigating any impacts on St'át'imc's traditional harvesting activities such as fishing and hunting) to the extent it is commercially reasonable to do so (including consideration of

the construction schedule). For greater certainty, the Parties acknowledge and agree that neither BC Hydro nor the Province shall be required to pay to any of the Releasors any further financial accommodation or compensation arising from the New Transmission Line (including from the existence, authorization, design, construction, installation, operation, maintenance, repair, reconstruction, alteration, upgrading, closure, removal, relocation or replacement of the New Transmission Line) beyond the payments and other accommodation provided for in this Agreement and the Settlement Agreements, even where mitigation of any identified impacts are determined by BC Hydro not to be commercially reasonable.

17. CLOSURE (RA)

17.1 **Process.** In the event BC Hydro determines that there will be a Closure (RA) of any of the Bridge-Seton Generation Facilities or a Closure (RA) of any transmission Facility having a rating of 60 kilovolts or higher (including substations), the Parties agree to follow the process outlined below:

- (a) **Representation of Communities.** Each Community, other than a Directly Affected Community, authorizes the St'át'imc Authority to represent it in carrying out any of its obligations relating to the Closure (RA) including:
 - (i) the process set out in this Section;
 - (ii) any other process required by any provincial or federal regulatory authorities in respect of the Closure (RA), including any environmental assessment process; and
 - (iii) any reasonable St'át'imc review process which St'át'imc consider applicable to the Closure (RA);
- (b) **Capacity Funding:** BC Hydro will provide reasonable capacity funding to St'át'imc and any Directly Affected Community respectively, in an amount agreed to by BC Hydro with each of St'át'imc and Directly Affected Communities and such capacity funding will be provided for the sole purpose of financially assisting St'át'imc and such Directly Affected Communities with:
 - (i) participation in the process set out in this Section;
 - (ii) participation in any provincial or federal regulatory proceedings applicable to the Closure (RA);
 - (iii) any reasonable St'át'imc review process which St'át'imc consider applicable to the Closure (RA); and
 - (iv) preparation of any reasonable St'át'imc assessments, studies, reports or summaries in respect of any Closure Impacts.

- (c) **Review Process.** Upon reaching agreement of the capacity funding arrangements referenced in Section 17.1(b), St'át'imc and the Directly Affected Communities will:
- (i) review and consider any information received in relation to the Closure (RA) and provide BC Hydro with feedback and comment in a timely manner;
 - (ii) participate in a timely manner in any:
 - (A) provincial or federal regulatory processes, including any environmental assessment process required in connection thereto, in accordance with any timelines prescribed by any provincial or federal process; and
 - (B) meetings with BC Hydro at mutually agreed upon locations and intervals;

associated with the Closure (RA) and to identify any Closure Impacts; and
 - (iii) identify and reasonably assess any Closure Impacts and prepare and deliver to BC Hydro any studies and reports related thereto, in sufficient form and detail to enable BC Hydro to understand and assess such Closure Impacts, provided that BC Hydro will be permitted to share this information with any provincial or federal regulatory bodies or authorities having jurisdiction in respect of the Closure (RA) unless otherwise agreed to by St'át'imc, any of the Directly Affected Communities and BC Hydro, as the case may be, pursuant to the terms of any confidentiality agreements that may be negotiated at such time.
- (d) **Coordination of Reviews.** If St'át'imc or any of the Directly Affected Communities have developed their own review process which St'át'imc or any of the Directly Affected Communities consider applicable to the Closure (RA), then St'át'imc and the Directly Affected Communities will coordinate such processes with its obligations under this Section and will use all reasonable efforts to adhere to all time frames set by any provincial or federal regulatory processes to which the Closure (RA) is subject. To the extent there is flexibility in the timing of any provincial or federal regulatory processes and if BC Hydro has any input into such timing, BC Hydro will consider, acting reasonably and taking into account BC Hydro's schedule for the Closure (RA), any requests from St'át'imc or any of the Directly Affected Communities to seek modifications to the proposed timing of such processes to make them complementary with the review processes established by St'át'imc or any of the Directly Affected Communities.
- (e) **Mitigation Strategies.** The Parties will work together in an effort to identify strategies to avoid, mitigate or manage, to the extent reasonably possible, the Closure Impacts, including:

- (i) incorporating St'at'imc input, including a consideration of St'at'imc Knowledge, into the Closure (RA);
 - (ii) reviewing potential options related to the Closure (RA); and
 - (iii) identifying potential contracting, business, employment and training opportunities for St'at'imc arising from the Closure (RA).
- (f) **Agreement Regarding Closure (RA).** BC Hydro, St'at'imc and any of the Directly Affected Communities, as the case may be, will work in good faith and use commercially reasonable efforts in attempting to reach agreement on the terms and conditions upon which St'at'imc and the Directly Affected Communities are prepared to provide BC Hydro with support for their proposed plans with respect to the Closure (RA).
- (g) **Legal Remedies.** If St'at'imc, any of the Directly Affected Communities and BC Hydro are unable to reach agreement on the terms and conditions upon which St'at'imc and any of the Directly Affected Communities are prepared to provide BC Hydro with their support for their proposed plans with respect to the Closure (RA), then the Parties agree that:
- (i) BC Hydro shall be free to pursue its own course of action (including all legal remedies available in law) in respect of such Closure (RA);
 - (ii) St'at'imc and the Directly Affected Communities shall each be free to pursue its own course of action (including all legal remedies available in law) in respect of any Closure Impacts related to such Closure (RA); and
 - (iii) except for Disputes as to whether an impact is a Closure Impact, the Dispute Resolution provisions of this Agreement are not applicable in that instance unless otherwise agreed to in writing by the Parties.
- (h) **Closure (RA) of Facilities on Reserve.** With respect to a Closure (RA) which is adjacent to or located wholly or partially on a Reserve of a Directly Affected Community, the Parties agree that the Directly Affected Community will participate in the process set out in this section to ensure that their concerns regarding any Closure Impacts occurring on such Reserves are addressed.
- (i) **Material Closure of the Bridge-Seton Generation Facilities.** In the event of a proposed Material Closure of the Bridge-Seton Generation Facilities, BC Hydro and St'at'imc (PC) agree to negotiate in good faith such amendments to the Bridge-Seton Operating Regime as may be reasonably required to reflect the changed operating conditions resulting from the Material Closure of the Bridge-Seton Generation Facilities as contemplated by Section 5.1 of the St'at'imc (PC) Settlement Agreement.

18. SURPLUS LANDS

- 18.1 **Surplus Former Reserve Lands.** If BC Hydro determines in its sole discretion that one of the Surplus Lands is surplus to BC Hydro's needs such that BC Hydro is prepared to sell it on the open market, then BC Hydro will, by written notice, provide the relevant Community, or if the Community decides not to purchase such Surplus Lands, then St'át'imc (in either case, the "**Purchaser**"), with the first opportunity to purchase such Surplus Lands pursuant to the process outlined in this Section 18 at its appraised fair market value as determined under Section 18.2 or at a purchase price otherwise agreed to by BC Hydro and the Purchaser if they agree that a formal appraisal is not required (the "**Purchase Price**").
- 18.2 **Appraisal.** If BC Hydro and the Purchaser determine that the appraised fair market value of the subject Surplus Lands is required, then BC Hydro and the Purchaser will agree on the selection of an appraiser to perform an initial appraisal (the "**Initial Appraisal**") of the subject Surplus Lands (the cost of which will be paid for by BC Hydro) pursuant to standard terms of reference pertaining to the appraisal of the fair market value of fee simple lands (which are to be substantively the same as those set out in the Canadian Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Institute of Canada) and will either:
- (a) agree to use the Initial Appraisal as the Purchase Price; or
 - (b) if they do not agree to use the Initial Appraisal as the Purchase Price, then they will agree on the selection of an additional two appraisers to each perform separate appraisals (the Initial Appraisal, together with the two additional appraisals, are referred to collectively as the "**Appraisals**") of the subject Surplus Lands (the cost of which will be split equally between BC Hydro and the Purchaser) pursuant to standard terms of reference pertaining to the appraisal of the fair market value of fee simple lands (which are to be substantively the same as those set out in the Canadian Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Institute of Canada) and agree to use the median value of the Appraisals (as calculated by discarding the highest and lowest appraisals) as the Purchase Price for the subject Surplus Lands.
- 18.3 **Confirmation Period.** Upon determination of the Purchase Price, the Purchaser will have 30 days (the "**Confirmation Period**") to confirm in writing to BC Hydro that it is proceeding with the purchase of the subject Surplus Lands.
- 18.4 **Closing Period.** If the Purchaser confirms in writing to BC Hydro within the Confirmation Period that it is proceeding with the purchase of the subject Surplus Lands, BC Hydro and the Purchaser will have a further 90 days, or such other time as agreed upon by BC Hydro and the Purchaser, from receipt by BC Hydro of such confirmation to complete the purchase and sale of the subject Surplus Lands for the Purchase Price to be paid, unless otherwise agreed to in writing by BC Hydro and the Purchaser, in full at closing by the Purchaser to BC Hydro pursuant to the terms and conditions of BC

Hydro's then existing standard form agreement pertaining to the 'purchase and sale of land' and transfer fee simple title in the subject Surplus Lands from BC Hydro to the Purchaser (the "**Closing Period**").

- 18.5 **Expiration of Option.** If the Purchaser:
- (a) confirms in writing to BC Hydro that it does not intend to purchase the Surplus Lands;
 - (b) does not confirm in writing to BC Hydro within the Confirmation Period that it is proceeding with the purchase of the Surplus Lands; or
 - (c) is, other than through the fault of BC Hydro, unable to complete the purchase of the subject Surplus Lands from BC Hydro within the Closing Period on the terms set out in this Section 18;

then BC Hydro will be entitled to offer the subject Surplus Lands on the open market, and to sell them on any terms and conditions it considers appropriate.

- 18.6 **No Limitation.** For greater certainty, nothing in this Section 18 precludes a Community or St'at'imc from endeavouring to purchase the subject Surplus Lands offered for sale on the open market by BC Hydro.
- 18.7 **No Objection.** Neither St'at'imc, nor any Community, nor any Member will object to the disposal by BC Hydro of, or do anything which would otherwise hinder BC Hydro's ability to dispose of, Surplus Lands provided that BC Hydro has complied with the provisions of this Section 18.

19. **DEFAULT**

- 19.1 **Events of Default.** An event of default (a "**Default**") arises if a Party (a "**Defaulting Party**") fails to observe, perform or carry out any of its obligations under this Agreement and such failure continues for 30 days (or such longer period of time as the Non-Defaulting Parties may consent to, acting reasonably) after the Party not in default (the "**Non-Defaulting Party**") gives a written notice of the Default to the Defaulting Party, which notice shall set out the particulars of the Default and demand that the Default be cured.
- 19.2 **Remedies for Default by St'at'imc or a Community.** For any Default by St'at'imc or any Community, BC Hydro may, subject to Section 20, pursue any remedy available to BC Hydro under the Dispute Resolution Process, including damages or other financial sanctions.
- 19.3 **Remedies for Default by BC Hydro.** Subject to Sections 20 and 2.2, for any Default by BC Hydro, St'at'imc may pursue any remedy available to it under the Dispute Resolution Process, including damages or other financial sanctions.

19.4 **Waiver.** Either Party may waive, in writing, a Default by the other Party, but any such waiver of a particular Default will not operate as a waiver of any subsequent or continuing Default.

20. DISPUTE RESOLUTION

20.1 **Scope of Dispute Resolution Process.** Subject to Section 20.2, and except as otherwise provided in this Agreement, all disputes, differences and disagreements between BC Hydro and St'át'imc, St'at'imc (PC) and/or one or more Communities as to the meaning, application, or implementation of any provision of this Agreement, including but not limited to any dispute, difference, or disagreement as to:

- (a) whether or not a Default has occurred under this Agreement;
- (b) whether or not a proposed action by a Party will constitute a Default under this Agreement; or
- (c) any claim for damages or any other remedy for a Default by BC Hydro, St'át'imc, St'at'imc (PC) and/or one or more Communities;

will be resolved in accordance with the Dispute Resolution Process under this Section 20.

20.2 **Confidentiality of Process.** The Parties and the Disputing Parties will keep confidential all discussions, negotiations, mediations, arbitrations and any other communications and proceedings conducted under the Dispute Resolution Process, and will not disclose to any third party such discussions, negotiations, mediations, arbitrations or other communications or proceedings, or the content thereof, unless previously discussed and agreed to in writing by the Disputing Parties or otherwise required by Law. For greater certainty:

- (a) nothing herein shall restrict BC Hydro's ability to keep the Province informed with respect to any Disputes;
- (b) no part of the Dispute Resolution Process will be open to the public; and
- (c) nothing herein shall restrict the St'at'imc Authority's ability to keep the Communities and Members or any Community's ability to keep its Community Members informed with respect to any Disputes.

20.3 **Notice of Dispute.** A Disputing Party may invoke the Dispute Resolution Process by delivering a written notice to the other Disputing Parties that a Dispute exists (a "**Dispute Notice**"), describing the nature and extent of the Dispute.

20.4 **Stages.** Except as provided in Section 20.5, or as otherwise agreed to by the Disputing Parties, any Disputes arising between the Disputing Parties will progress, until resolved, through the following stages of the Dispute Resolution Process:

STAGE 1: Within 30 days of a Dispute Notice, the Steering Committee will make bona fide efforts to resolve the Dispute.

STAGE 2: If the Steering Committee is unable to resolve the Dispute within 30 days of the Dispute Notice (the “**Stage 1 Dispute Period**”), the Principals will, within 15 days of the expiry of the Stage 1 Dispute Period, meet and make bona fide efforts to resolve the Dispute.

STAGE 3: If the Principals are unable to resolve the Dispute within 30 days of the end of the Stage 1 Dispute Period, then either Disputing Party may give written notice to the other Disputing Party of a desire to commence mediation, and the Disputing Parties will jointly appoint a mutually acceptable mediator within 30 days after such notice is given. If the Disputing Parties are unable to agree upon the appointment of a mediator within 30 days after a Disputing Party has given written notice of a desire to mediate the Dispute, either Disputing Party may apply to the British Columbia Mediator Roster Society for the appointment of a mediator. The mediation will be conducted under the Mediation Rules of the British Columbia Mediator Roster Society unless otherwise agreed to in writing by the Disputing Parties.

STAGE 4: If the Dispute has not been resolved through mediation under Stage 3 within 60 days of the appointment of a mediator, then either of the Disputing Parties, by means of written notice to the other Disputing Party, may refer such unresolved Dispute to binding arbitration under the Commercial Arbitration Act. The Disputing Parties will agree on a single arbitrator within 30 days of the notice of arbitration being provided, failing which the arbitrator will be selected in accordance with the Commercial Arbitration Act. The decision of the arbitrator will be final and binding on the Disputing Parties.

20.5 Exception to Dispute Resolution Process. Despite anything else in this Section 20:

- (a) a Disputing Party may by notice in writing to the other Disputing Party elect to refer a Dispute relating to whether an action or a proposed action by either Disputing Party will constitute a material Default directly to Stage 4 of Section 20.4 for arbitration;
- (b) in urgent circumstances, a Dispute referred directly to arbitration under Section 20.5(a) will be conducted on an expedited basis, to the extent reasonably necessary, to avoid prejudice to a Disputing Party; or
- (c) a Disputing Party may, upon agreement in writing of the other Disputing Party, elect to refer a Dispute relating to a disagreement amongst the Steering Committee in respect of a proposed decision or recommendation directly to Stage 3 of Section 20.4.

20.6 Without Prejudice. The Disputing Parties’ attempts during Stages 1 - 3 to resolve a Dispute are without prejudice to any position or argument such Disputing Parties may wish to make in Stage 4.

- 20.7 **Availability of Argument.** In any Dispute, a Disputing Party may raise any defence or argument that it would otherwise have been able to raise at law, equity, or otherwise, had the dispute been referred to a court of competent jurisdiction, including a defence that the Dispute is statute-barred by the *Limitation Act*, R.S.B.C. 1996, c. 266.
- 20.8 **Arbitrator's Powers.** An arbitrator appointed under this Section 20 may award remedies at law and in equity, but may not make any award that restricts, constrains, or alters BC Hydro's use or operation of the Facilities (RA) except as provided in Section 10.9 of the St'at'imc (PC) Settlement Agreement.
- 20.9 **No Further Claims.** When Disputes are resolved under this Section 20:
- (a) the Disputing Party may not make any further claim against the other Disputing Party; and
 - (b) no further compensation will be payable by a Disputing Party to the other Disputing Party;
- for the same Dispute.
- 20.10 **Dispute Resolution Costs.** Unless otherwise ordered by an arbitrator appointed under this Section 20, in any Dispute to which the Dispute Resolution Process applies, each Disputing Party will be responsible for all of its own costs and its equal share of the shared costs, including the cost of mediators, arbitrators, facilities, and reporters necessary to conduct the Dispute Resolution Process.

21. REPRESENTATIONS AND WARRANTIES

- 21.1 **Representations and Warranties of St'at'imc.** St'at'imc warrants and represents to BC Hydro that:
- (a) St'at'imc Authority has for the purposes of this Agreement the legal power, capacity and authority to enter into this Agreement for and on behalf of all the Members and carry out its obligations under this Agreement;
 - (b) this Agreement is a valid and legally binding obligation of St'at'imc Authority;
 - (c) St'at'imc Authority has taken all necessary actions and obtained all necessary approvals to enter into this Agreement for and on behalf of the Members and carry out its obligations under this Agreement; and
 - (d) all of the representations and warranties made by St'at'imc Authority under the Ratification Agreement are true and correct as of the date hereof and all the covenants and obligations to be performed or satisfied by St'at'imc Authority on behalf of the Members under the Ratification Agreement have been performed or satisfied in accordance with the terms of the Ratification Agreement in all material respects.

21.2 **Representations and Warranties of each Community.** Each Community warrants and represents to BC Hydro that:

- (a) its Band Council is a duly constituted band council under the *Indian Act*;
- (b) it has the legal power, capacity and authority to enter into this Agreement for and on behalf of itself and its Community Members and to carry out its obligations under this Agreement;
- (c) this Agreement is a valid and legally binding obligation of such Community and its Community Members;
- (d) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement for and on behalf of its Community Members and carry out its obligations under this Agreement, including authorizing the St'át'imc Authority to represent it in the manner contemplated by this Agreement; and
- (e) all of the representations and warranties made by such Community under the Ratification Agreement are true and correct as of the date hereof and all the covenants and obligations to be performed or satisfied by such Community under the Ratification Agreement have been performed or satisfied in accordance with the terms of the Ratification Agreement in all material respects.

21.3 **Representations and Warranties of BC Hydro.** BC Hydro warrants and represents to St'át'imc that:

- (a) it has the legal power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement;
- (b) this Agreement is a valid and legally binding obligation of BC Hydro; and
- (c) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement and carry out its obligations under this Agreement.

22. GENERAL

22.1 **Costs.** Except as otherwise provided in this Agreement, each Party will bear its own costs in complying with this Agreement.

22.2 **Notice.** Except as otherwise provided in this Agreement, any notice, direction, demand, request, or document required or permitted to be given by any Party to any other Party under this Agreement will be in writing and deemed to have been sufficiently given if signed by or on behalf of the Party giving the notice and delivered in person or transmitted by facsimile or e-mail to the other Party's address, facsimile number, or e-mail address as shown below:

To St'át'imc:

St'át'imc Authority care of the St'at'imc Chiefs Council
Box 2218, 650 Industrial Place
Lillooet, BC V0K 1V0

Attention: St'át'imc Relations Manager

Facsimile: 250 256 0445

To BC Hydro:

British Columbia Hydro and Power Authority
6911 Southpoint Drive
Burnaby, BC V3N 4X8

Attention: BC Hydro Relations Manager

Facsimile: 604 528 3157

To Any Directly Affected Community

As per the notice provision in such Community's Community Agreement

or to such other address, to such other facsimile number or e-mail address or to the attention of such other official or individual as a Party will have most recently notified the other Parties in writing. The Parties will, from time to time, provide written notice to the other Parties of any changes to the contact persons or contact details listed for such Party under this Section 22.2. Any such notice, direction, request, or document will conclusively be deemed to have been received by the intended recipient on the date of delivery or transmission, as the case may be, except that if it is not received at such address, e-mail address, or at the facsimile device by 5:00 P.M. on a Business Day (at the place of receipt) it will conclusively be deemed to have been received by the intended recipient on the next Business Day immediately following its receipt at such address, e-mail address or at such facsimile device.

22.3 **Entire Agreement.** The Settlement Documents and any other agreement in writing between any of the Parties relating to the subject matter of the Settlement Documents, which is entered into substantially contemporaneously with this Agreement, constitutes the entire agreement among the Parties relating to the subject matter of this Agreement and supersedes all prior negotiations and agreements, whether written, oral, implied, or collateral, among the Parties with respect to the subject matter of this Agreement, including without limitation 1998 MOU and the Negotiating Protocol, which are terminated hereby.

22.4 **Independent Legal Advice.** The Parties acknowledge that each of them will have executed this Agreement freely and voluntarily, without duress and after receiving independent legal advice from their respective solicitors.

22.5 **Governing Law.** This Agreement is deemed to be made in British Columbia, and will be governed by and construed and interpreted in accordance with the laws of British Columbia and the laws of Canada applicable therein.

22.6 **Assignment and Successorship.**

(a) BC Hydro may assign this Agreement only when and to the extent the St'at'imc (PC) Settlement Agreement, the Lil'wat Settlement Agreement, the Certainty Provisions Agreement and the Community Settlement Agreements are assigned; and

(b) Neither St'at'imc nor any Community may assign any of its rights or obligations under this Agreement without the consent of BC Hydro, which consent may be withheld in the discretion of BC Hydro.

22.7 **Amendment.** The only amendments to this Agreement which are binding on the Parties are written amendments signed by the Parties. For St'at'imc, such amendments must be consented to by the St'at'imc Authority (without further ratification by the Members) and each of the Communities (without further ratification by each Community's Community Members).

22.8 **Further Assurances.** As and so often as a Party may reasonably require, each Party will execute and deliver further documents and assurances as may be necessary to properly carry out this Agreement.

22.9 **Waivers.** No provision of this Agreement may be waived by a Party, except by written notice to the other Parties and any waiver of a provision:

(a) is valid only in respect of the specific instance to which it relates and is not a continuing waiver; and

(b) is not a waiver of any other provision.

22.10 **Time.** Time will be of the essence of this Agreement.

22.11 **Counterparts.** This Agreement may be signed in one or more counterparts, each counterpart may be transmitted by facsimile or email and each will constitute an original instrument and such counterparts, taken together, will constitute one and the same document.

This Agreement has been executed and delivered as of the date of this Agreement as set out on the first page.

St'át'imc Parties

St'at'imc Authority

ST'ÁT'IMC CHIEFS COUNCIL

By:

The Chair of the SCC, Michael Leach

Lil'wat:

MOUNT CURRIE INDIAN BAND

By:

Chief Lucinda Phillips

N'Quatqua:

N'QUATQUA INDIAN BAND

By:

Chief Arthur Ralph Thevarge

Samahquam:

SAMAHQUAM INDIAN BAND

By:

Chief Brenda Lester

Sekw'elw'as:

CAYOOSE CREEK INDIAN BAND

By:

Chief Perry Redan

Skatin:

SKATIN NATIONS INDIAN BAND

By:

Chief Patrick Williams

T'it'q'et:

T'IT'Q'ET INDIAN BAND

By:

Chief Kevin Whitney

Tribal Chief Shelley Leach

Tsal'álh:

SETON LAKE INDIAN BAND

By:

Chief Garry John

Ts'kw'aylaxw:

TS'KW'AYLAXW FIRST NATION

By:

Chief Clifford Alec

Xaxli'p:

XAXLI'P INDIAN BAND

By:

Chief Arthur Adolph

Xa'xtsa:

DOUGLAS INDIAN BAND

By:

Chief Donald Harris

Xwisten:

BRIDGE RIVER INDIAN BAND

By:

Chief Bradley Jack

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:

President and CEO David Cobb

Schedule A
Common Definitions Schedule

Schedule B
Contracting Protocol

1.1 **Protocol.** Subject to Section 1.2 of this Protocol, the following provisions shall apply to the process for review and award of the Contract Opportunities referred to in Section 8.2 through to and including Section 8.6:

- (a) Prior to March 31st of each BC Hydro Year, BC Hydro will deliver to St'at'imc a written description, reasonably sufficient to facilitate meaningful review with St'at'imc, of those Contract Opportunities that BC Hydro reasonably expects, based on the information then available to BC Hydro as of the date of such delivery, to make available during the next BC Hydro Year, and, if known, future BC Hydro Years, to Eligible Business Entities including any multi-year Contract Opportunities. BC Hydro and St'at'imc will meet at the earliest reasonable date, and no later than 30 days after the delivery of such written description, to discuss the Contract Opportunities outlined therein.
- (b) If after delivery of the written description of Contract Opportunities contemplated by Section 1.1(a) of this Protocol, BC Hydro determines that it wishes to make available other Contract Opportunities to Eligible Business Entities during the current BC Hydro Year or other period contemplated by Section 1.1(a) of this Protocol, BC Hydro shall deliver a further written description of such Contract Opportunities, reasonably sufficient to facilitate meaningful review with St'at'imc. BC Hydro and St'at'imc will meet at the earliest reasonable date, and no later than 30 days after the delivery of such written description, to discuss the Contract Opportunities outlined therein.
- (c) Prior to issuing any request for proposal (“RFP”) or tender documents for any Contract Opportunities in a BC Hydro Year, BC Hydro will schedule a meeting with St'at'imc (and any interested Eligible Business Entity invited by St'at'imc) to review BC Hydro's most recent standard form contracts, safety policies, environmental policies, and any other practices and policies which may be applicable to the Contract Opportunities that BC Hydro proposes to make available in that BC Hydro Year.
- (d) Neither the delivery of the description of the expected Contract Opportunities in Sections 1.1(a) or 1.1(b) of this Protocol to St'at'imc, nor the commencement of the Contract Opportunity review process in Section 1.1(e) of this Protocol will limit BC Hydro's sole discretion as to whether to issue an RFP or tender documents with respect to a particular Contract Opportunity.
- (e) Prior to issuing any RFP or tender documents for a particular Contract Opportunity, BC Hydro will, subject to Section 1.2 of this Protocol, undertake the following review process for such Contract Opportunity:

- (i) BC Hydro shall initiate the review process by providing written notice (the “**Review Commencement Notice**”) to St’at’imc of its desire to commence the review process and such notice shall identify the particular Contract Opportunity(ies) to be reviewed and include a copy of the written description of such Contract Opportunity (ies) previously provided under Sections 1.1(a) or 1.1(b) of this Protocol;
 - (ii) unless otherwise agreed to in writing and except as provided below, the applicable Parties will take all steps and actions required to complete the review process for a Contract Opportunity within 60 days of the date a Review Commencement Notice has been given for such Contract Opportunity;
 - (iii) as soon as possible after the Review Commencement Notice has been given, BC Hydro will review with St’at’imc (and any interested Eligible Business Entities invited by St’at’imc) the Contract Opportunities identified in such Review Commencement Notice and as part of this review process:
 - (A) BC Hydro will:
 - (1) consider representations from St’at’imc to alter the timing, size and nature of the proposed contracts to assist St’at’imc in its efforts to develop the capacity and qualifications to be reasonably able to take advantage of the proposed and future Contract Opportunities; it being acknowledged that one of the objectives is to provide for ongoing St’at’imc employment and capacity building to manage overall contract work within the contemplated programs; and
 - (2) clarify for St’at’imc in this regard what contract terms, if any, BC Hydro is prepared in its sole discretion to make available in response to St’at’imc’s representations under (1) herein; and

provided that the final decision as to the terms and conditions (including the timing, size and nature) of any such Contract Opportunities and the contracts relating thereto to be made available will be made by BC Hydro at its sole discretion; and
 - (B) St’at’imc will clarify for BC Hydro to the extent practical and considering the information provided by BC Hydro the Contract Opportunities that Eligible Business Entities expect to be prepared to proceed with.
- (f) Following completion of the review process contemplated by Section 1.1(e) of this Protocol in respect of a Contract Opportunity, BC Hydro may at any time, at

its sole discretion, initiate the following RFP or tender process with regard to that Contract Opportunity:

- (i) BC Hydro will provide St'at'imc with RFP or tender documents for such Contract Opportunity, such documents:
 - (A) to be delivered to the St'at'imc Authority and to be open for response by Eligible Business Entities for a period of at least 30 days after receipt by St'at'imc (such period as initially determined by BC Hydro and as may be extended by BC Hydro, in both cases at its sole discretion, is referred to herein as the "**Contract Response Period**"); and
 - (B) to include terms and conditions consistent with those contained in Section 8.10 of this Agreement;
- (ii) During the Contract Response Period BC Hydro agrees to discuss with St'at'imc (and any interested Eligible Business Entities invited by St'at'imc) the Contract Opportunities provided under Section 1.1(f)(i) of this Protocol and respond in a timely way to questions regarding the nature of the work and requirements of the RFP or tender documents;
- (iii) If any Eligible Business Entity elects to respond to the Contract Opportunities provided under Section 1.1(f)(i) of this Protocol, such responses will be provided to BC Hydro within the Contract Response Period and in the formats specified in the RFP or tender documents. St'at'imc will be deemed to have elected not to respond in the event that Eligible Business Entity does not so respond in such manner within the Contract Response Period;
- (iv) After review of the response(s) provided under Section 1.1(f)(iii) of this Protocol, BC Hydro will award the contract(s) relating to each Contract Opportunity to any Eligible Business Entities provided that BC Hydro is satisfied, acting reasonably, that the response(s) meets BC Hydro's contract requirements for that particular Contract Opportunity, including satisfying the conditions of Section 8.10 of this Agreement.

For greater certainty, BC Hydro shall not be obligated to initiate an RFP or other tender process with respect to any Contract Opportunity that St'at'imc has clarified for BC Hydro that it is not prepared to proceed with pursuant to Section 1.1(e)(iii)(B) of this Protocol, and BC Hydro shall be free to engage another third party contractor to complete such Contract Opportunity.

1.2 Abridgement of Time Periods. Notwithstanding anything else contained herein, BC Hydro shall be entitled, acting reasonably, to abridge the time periods set out herein for review and response in circumstances where contract work is required to be completed on an expedited basis to address an urgent environmental or safety concern or an urgent situation that will

potentially result in material damage or loss to persons, property or other BC Hydro interests.

- 1.3 **Amendments.** Upon the request from time to time of either BC Hydro or St'at'imc, the Parties will review and give reasonable consideration to any amendments proposed by either of such parties to the terms of this Contracting Protocol; it being the intention of the parties that the terms of this Contracting Protocol will provide a reasonably timely and efficient process for the planning and the sharing of information contemplated hereby.

Schedule C
Territory Map

Schedule D
Map of Bridge-Seton Watershed

Schedule E
Map of Lil'wat's Area of Interest

SCHEDULE 4

ARCHAEOLOGICAL MANAGEMENT PLAN

Stl'atl'imx Archaeology Management Plan Summary

The Stl'atl'imx Nation Archaeology Management Plan proposes to conduct cultural heritage site mitigation and management of cultural resources, specifically

- Mitigation of cultural heritage sites
- Mitigation for impacts to cultural heritage as a result of BC Hydro operations

The Archaeology Management Plan is divided into two sections. Section One provides recommendations and cost estimates to assess and mitigate BC Hydro *impacts to archaeological sites* (see Table 1), and the second section provides cost estimates and a general scope of work to mitigate BC Hydro *impacts to culture* (Table 2). The specific phases and estimated costs for proposed projects in each phase are as follows:

Table 1. Summary of Cultural Sites Mitigation Phases

Phase	Description	Estimated Budget
Phase One	Complete recording and assessment of 37 of the 64 sites assessed in 2004	\$93,900
Phase Two	Conduct Mitigation/Remediation for sites assessed in 2004 (approx. 40 sites) Budget includes \$136,140 for Archaeology and 400,860 for Equipment Costs	\$537,000
Phase Three	Complete assessment of remaining 160+ identified sites in potential conflict with BCH operations	\$640,000
Phase Four	Work with communities to: - locate and record remaining sites in potential conflict with BCH operations - access BCH impacts to those sites	\$750,000
Phase Five	Complete mitigation for sites accessed in Phase Three (160s sites) and identified and recorded in Phase Four (estimated to be an additional 160 sites)	\$1,043,000 plus equipment/supply costs
Phase Six	Monitor new and ongoing BC Hydro Operations	Interim Agreement Cost Est. \$50,000 Final Agreement Cost Est: T.B.D.
Total Estimated Cost		3,113,900

Table 2. Summary of Proposed Cultural Impacts Mitigation Phases

Project Name	Duration	Estimated Budget
Land Use and Occupancy Study (LUOS)	3 to 5 years	Feasibility Study: \$367,000 Annual Budget \$750,000
Heritage Inventory and Assessment	3 to 5 years	1,300,000
Cultural Heritage Centre(s)	Ongoing	Capital Costs: \$3,000,000 * Future Costs: TBD
Protection of Cultural Landscapes	6 to 8 months (feasibility study)	Feasibility Study: \$150,000 *Future Costs: TBD
Capacity Building	Ongoing	Grade School Projects: \$250,000 Post-secondary Student Support: \$9950 per student per semester
Special Projects Fund	Ongoing	\$ 500,0000 *funds not used to be carried over to the next fiscal year to meet the \$500,000 budget

Stl'atl'imx Nation Cultural Heritage Sites

Mitigation and Management Plan

Summary

- 1.0 Introduction and Rationale
- 2.0 Mitigation for Impacts to Cultural Sites
 - 2.1 Description of Proposed Phases
 - 2.2 Cost Estimates: Mitigation for Impacts to Cultural Sites
- 3.0 Mitigation for Impacts to Culture
 - 3.1 Land Use and Occupancy Study
 - 3.2 Heritage Inventory and Assessment
 - 3.3 Cultural Heritage Centre Establishment
 - 3.4 Protection of Cultural Landscape
 - 3.5 Capacity Building
 - 3.5.1 Post-Secondary Capacity Building Initiatives
 - 3.5.2 Grade School Capacity Building Initiatives
 - 3.6 Special Projects Fund

List of Tables

- Table 1 Summary of Cultural Sites Mitigation Phases
- Table 2 Summary of Proposed Cultural Impacts Mitigation Phases
- Table 3 Summary of Cultural Site Mitigation Phases
- Table 4 Cost Estimate Summary for Mitigation to Cultural Heritage Sites
- Table 5 Summary of Cultural Heritage Projects
- Table 6 Land Use and Occupancy Study Steps
- Table 7 Heritage Inventory and Assessment
- Table 8 Post-Secondary Costs Per Semester/Per Student

List of Appendices

- Appendix A: Cost Estimates for Mitigating Impacts to Cultural Sites
- Appendix B: Cost Estimates for Land Use and Occupancy Feasibility Study
- Appendix C: Cost Estimates for Heritage Sites Inventory
- Appendix D: Cost Estimates for Cultural Landscape Feasibility Study

Summary

This document is divided into two sections. The first provides recommendations and cost estimates for BC Hydro impacts to archaeological sites in Stl'atl'imx territory (Table 1), the second provides cost estimates and a general scope of work to address BC Hydro's impacts to culture (Table 2). The specific phases and estimated costs for proposed projects in each phase are as follows:

Table 1: Summary of Cultural Sites Mitigation Phases

Phase	Description	Estimated Budget
Phase One	Complete recording and assessment of 37 of 64 sites assessed in 2004	\$93,9000
Phase Two	Conduct Mitigation/Remediation for sites assessed in 2004 (approx. 40 sites)	Archaeology \$136, 145 Construction/Equipment Costs: \$400, 860 TOTAL: \$537, 000
Phase Three	Complete assessment of remaining 160+ identified sites in potential conflict with BCH operations (after Arcas 1999)	\$640,000
Phase Four	Work with communities to: <ul style="list-style-type: none"> • Locate and record remaining sites in potential conflict with BCH operations • Assess BCH impacts to those sites 	\$750,000
Phase Five	Complete mitigation for sites assessed in Phase Three (160 sites) and identified and recorded in Phase Four (estimated an additional 160 sites).	\$1,043,000 + equipment and supply costs
Phase Six	Monitor now and ongoing BC Hydro Activities	Interim Agreement Cost Est. \$50,000 Final Agreement Cost Estimate: T.B.A.
Preliminary Costs for all proposed Phases		\$3,113,900

Table 2: Summary of Proposed Cultural Impacts Mitigation Phases

Project Name	Duration	Estimated Budget
Land Use and Occupancy Study (LUOS)	3 to 5 years	Feasibility Study: \$367,000 LUOS Annual Budget Estimate: \$750,000 x 5 years = \$4,117,000
Heritage Inventory and Assessment	3 to 5 years	Approx. \$1,300,000
Establish Cultural Heritage Centre(s)	Ongoing	Capital Costs: \$3,000,000 Annual Physical Plat Costs: TBD Annual Staffing/Operation Costs: \$ TBD Additional Facilities: \$ TBD
Protection of Cultural Landscapes	6 to 8 month feasibility study	Feasibility Study: \$150,000 Establishment of Cultural Landscape: TBA on completion of Feasibility Study
Capacity Building	Ongoing	Grade School Capacity Building \$250,000 annually Post-Secondary Capacity Building: \$10,000 per semester/per student
Special Projects Fund	Ongoing	\$500,000 annually (funds not used to carry over to the next fiscal year to meet the \$500,000 budget).

1.0 Introduction and Rationale

This document provides draft recommendations and cost estimates that address:

1. Mitigation to cultural heritage sites (including those investigated by Klassen et al. 2004); and;
2. Mitigation for impacts to cultural heritage.

Fieldwork and community consultation conducted in 1999 (Arcas) and in 2004 (Klassen et al.) resulted in the identification of 220 registered (archaeological sites on file with the BC Archaeology Branch) archaeological sites in potential conflict with BC Hydro (BCH) direct/ongoing operations. A pilot archaeological study (Klassen 2004) was conducted in an effort to assess the number, location and condition of a sample selection of archaeological sites in potential conflict with BCH operations. To this end, 64 archaeological sites, comprised of 50 previously recorded and 14 unregistered (archaeological sites known to the communities but not registered with the BC Archaeology Branch) sites, were investigated in the field. However, more work is required to assess the extent of impact, identify site boundaries and mitigate those sites impacted by BCH operations.

The work carried out by Klassen et al. only addresses those Stl'atl'imx heritage sites that contain physical remains of past use and occupation. While archaeological sites are important, they represent only one aspect of the heritage landscape. Consequently, a comprehensive Stl'atl'imx heritage management plan must take into account the full range of heritage sites – many of which do not contain physical evidence of use, but nonetheless serve as important cultural anchors for the past, present and future generations of the Stl'atl'imx.

The following recommendations are presented in two groups. The first of recommendations stem from and build upon those included in the Klassen et al. report and outline a short and long-term plan for the assessment and mitigation of archaeological sites (defined as those places that contain physical remains of past use and occupation). The second set of recommendations attempts to outline a long-term, broad plan for assessing and addressing impacts the Stl'atl'imx cultural landscape.

2.0 Mitigation for Impacts to Cultural Sites

The following presents a phased approach to addressing BCH known and anticipated impacts to archaeological sites. These recommendations are based upon those provided in Klassen et al (2004). Table 3 is a summary of the phases to mitigate impacts to Stl'atl'imx cultural sites

Table 3: Summary of Cultural Site Mitigation Phases

Phase	Description
Phase One	Complete recording and assessment of 37 of 64 sites assessed by Klassen et al. 2004
Phase Two	Conduct Mitigation/Remediation for sites assessed in 2004
Phase Three	Complete assessment of remaining 160+ identified sites (registered and unregistered as reported in Arcas 1999) that are in potential conflict with BCH operations
Phase Four	Conduct further community and archival research to identify known or potential site locations and conduct archaeological survey of selected areas to search for and record previously unregistered archaeological sites
Phase Five	Complete mitigation for site assessed in Phase Three and identified in Phase Four
Phase Six	Monitor BC Hydro activities

2.1 Description of Proposed Phases

Phase One: Complete recording and assessment of 37 of the 64 sites accessed by Klassen et al. (2004:28).

The first step in this phase would be to conduct subsurface testing to determine/define site depth and extent, including detailed mapping and recording of site features and deposits which may or may not extend beyond the BCH impact zone.

The second step would be to identify, through additional survey and subsurface testing, the nature and extent of

- a) BCH impacts
- b) Non-BCH impacts

The third step would be to conduct additional community and/or archival research to identify the origin, duration, extent, and age of impacts to the sites.

Phase Two: Conduct Mitigation/Remediation for sites assessed in Klassen et al. (2004:38).

Table 8 in Klassen et al. (2008) describes site-specific mitigation/remediation tasks. The implementations of these tasks should occur as soon as possible. BCH has provided a breakdown of equipment/supply costs associated with the mitigation/remediation of specific sites. These costs are in addition to those incurred by the archaeology work, such as the surface collection of artifacts, and are included in the overall costs estimate for this phase.

The Stl'atl'imx will take the lead, via direct award, in completing all aspects of site mitigation/remediation including those tasks associated with heavy machine operation and site clearing.¹

Phase Three: Complete assessment of remaining 160+ identified sites (registered and unregistered as reported in Arcas 1999) that are in potential conflict with BCH operations.

This may include one or more of the following approaches:

- Based on a review of existing site/community information locate and accurately map (GPS/GIS) site locations;
- Assess the extent² and nature of each site;
- Identify and assess the impact of BCH and non-BCH activities at each site.

Phase Four: Conduct further community and archival research to identify known or potential site locations and conduct an archaeological survey of selected areas to search for and record previously unregistered archaeological sites.

More specifically, this would include one or more of the following tasks;

- Community interviews to identify use areas and consequently potential site locations;
- Archival research (BC Archives and Records Services, BC Hydro Archives, Surveyor General etc.) to identify site locations or potential site areas;

¹ This includes all work except that which requires the use/operation of specialized equipment (i.e. pole placement machinery).

² The boundaries of each site will be mapped, even if they extend beyond the BCH impact zone.

- Conduct field assessment, including surface and sub-surface testing, in selected areas to search for and identify site locations;
- Map (GPS/GIS) site location and extent as revealed by surface and sub-surface testing;
- Identify, assess and map BCH and non-BCH impacts

Phase Five: Complete mitigation for sites assessed in Phase Three and located in Phase Four.

Mitigation plans for those sites identified, located, and assessed as part of Phase Three and Phase Four should be developed and implemented. Such mitigation/remediation plans could consist of, but are not limited to, one or more of the following actions suggested by Klassen et al. (2004:38).

- Recovery of cultural materials (via surface collection, controlled excavation, screening of disturbed matrices etc.) from disturbed or moved cultural deposits;
- Removal of BCH-related debris/materials from site surfaces;
- Site or feature restoration³;
- Slope/bank/surface restoration or stabilization;
- Road closure or deactivation
- Access road control (i.e. the use of gates)
-

Mitigation plans will be implemented to salvage artifacts and other cultural materials from damaged cultural sites. The Stl'atl'imx expect and require compensation for those sites destroyed by BCH impacts.

It should be noted that additional or more detailed mitigation/remediation plans will be developed to meet the specific needs of each site accessed. In addition, it is possible that some of the mitigation/remediation actions themselves will have to be accompanied by an archaeological monitoring or other investigation plan – especially in circumstances where the plans involve sub-surface disturbance (i.e. installation of gate/fence posts, bank stabilization etc.).

Phase Six: Monitor BCH Operations

Klassen et al. (2004) report that 53 of the 64 sites assessed as part of their 2004 study have been directly impacted by BCH operations and that many of those impacts are ongoing. It is anticipated that further impacts will be identified as the sites are subject to more detailed sub-surface testing. In addition, it is likely that all or most of the 160+ sites originally identified by Arcas (1999) as being within BCH operations zone, and those sites identified and assessed via other Phases outlined above will also exhibit impacts that can be attributed in whole or in part to BCH.

³ The restoration of house pit rims or other cultural features would be in appearance only as it would be impossible to place cultural material or deposits in their original context once they have been disturbed.

Consequently, it is imperative that BC Hydro is made aware of the extent of the current impacts, the degree to which those impacts have altered the site, the significance of that alteration to the Stl'atl'imx, the requirements under Stl'atl'imx Policy and the Provincial *Heritage Conservation Act* for addressing (mitigating) the impacts, the importance of avoiding or reducing ongoing and future impacts. In addition, the issue of secondary impacts has yet to be addressed but is an important phase in developing a comprehensive Heritage Management Plan. The subject will be addressed further in the proceeding sections of this document. In short, the following is a list of Impact Management Process Tasks adapted from those provided by Klassen et al. (2004:38):

- Develop an interim protocol that can be implemented immediately to provide interim guidance to BCH as they operate in and around Stl'atl'imx heritage sites. Protocol development (and the funding to support it) should begin immediately;
- Complete a BC Hydro specific Heritage Management Plan, which will be guided by the overall Stl'atl'imx Nation Heritage Policy currently being developed at the Nation level, and incorporated into the Future Relations Consultation Protocol, also being negotiated at the Nation level. This policy will provide clear guidelines to BCH staff/contractors regarding activity in and around Stl'atl'imx Heritage Sites⁴;
- Conduct regular orientation seminars to inform BCH staff/contractors of their obligations regarding Stl'atl'imx Heritage policies and procedures;
- Work proactively with BCH operational staff to anticipate and thereby avoid/mitigate impacts to Stl'atl'imx Heritage Sites. This could involve a refined referral process through which BCH presents their detailed operation plans (including alteration, maintenance and development plans) to the Stl'atl'imx. The Stl'atl'imx would then check the proposed works against a comprehensive database of site locations, and provide feedback regarding the potential impacts of the proposed works. This process should compliment the referral system currently used by BCH.

2.2 Cost Estimates: Mitigation for Impacts to Cultural Sites

The following costs (Table 4) were generated based upon a combination of the estimates provided by Klassen et al (2004) and a more detailed internal assessment of the fees and expenses required for each of the above noted phases. The cost estimates also include provisions for wage/fee increases for the Stl'atl'imx field technicians. A detailed cost estimate for each phase is provided in Appendix A. Appendix A also includes a timeline that is summarized in the table below.

Table 4: Cost Estimate Summary for Mitigation to Cultural Heritage Sites

Phase	Cost Estimates ⁵	Year	Comments
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⁴ It is expected that some of the policy developed here will overlap with that negotiated as part of the Future Relations agreement.

⁵ Estimates have been rounded to the nearest \$1000

One	\$93,900	2009	Detailed recording and assessment of 37 of 64 sites surveyed
Two	Archaeology \$136,140 Construction/ Equipment Costs: \$400,860 Total: \$537, 000	2009/2010	The number of monitoring days is based upon the site-specific mitigation recommendations by Klassen et al. (2004) and the estimates provided by BCH that outline the operating time required to perform mitigation measures. There is the expectation that via direct contract award the Stl'atl'imx will provide most of the equipment services.
Three	\$640,000	2010/2011	Detailed recording and assessment of remaining 160+ sites identified as being in potential conflict with BCH operations. Arcas (1999)
Four	\$750,000		Number of survey days will depend upon the number of areas selected for survey. This estimate is based on fees/expenses required to access and assess the approx. 160 additional and unregistered sites. The number of sites and the cost estimates may increase greatly depending on the results of community consultation
Five	\$1,043,000 ⁶	2012/2013	Number of field days will depend upon site-specific mitigation/remediation plans of 320 sites, assuming that all will need to be mitigated. NOTE: The cost estimates do not include construction or equipment costs
Six	Interim Agreement Costs	2008/2009	Policy development and implementation required
Preliminary Cost Estimates			\$3,113,900

3.0 Mitigation for Impacts to Culture

BC Hydro has impacted Stl'atl'imx culture and our ability to pass that culture on to future generations. We see the projects described below as creating avenues to ensure cultural continuity in the face of BC Hydro's impacts.

The previous section of this document lays out a plan to address the legal and business requirements for assessing and mitigating BC Hydro's impacts to *archaeological sites*. The proceeding section aims to outline a basic approach to a long-term heritage management plan of Stl'atl'imx heritage sites. These sites include, but are not limited to,

⁶ This estimate is based on the currently available information but further work will be required once the results of Phase Four have been compiled.

archaeological sites. Site mitigation does not however, address all of BC Hydro's impacts to physical cultural heritage.

Our relationship with the Territory is a holistic one and as such, we use the notion of a cultural landscape as a platform for the studies presented below. As noted by Klassen et al. (2004:35) from Buggey (1999) a cultural landscape can be defined as:

A place valued by an Aboriginal group (or groups) because of their long and complex relationship with that land. It expresses their unity with the natural and spiritual environment. It embodies their traditional knowledge of spirits, places, land uses and ecology. Material remains of the association may be prominent, but will often be minimal or absent.

For example, with this definition in mind, the Stl'atl'imx cultural landscape includes major village site locations (i.e. Keatley Creek, Bridge River, Bell Site etc.), smaller resource gathering camps, and the trails and transportation routes that connect them. These places are overlain by a rich fabric of traditional knowledge that guides when the sites are used, and how resources are gathered and managed. A further layer of spiritual sites and ceremonial locations attest to the embedded nature of Stl'atl'imx knowledge and serves as anchors for the transmission of that knowledge.

BC Hydro has had a profound impact on the Stl'atl'imx cultural landscape and, via the intimate cultural connection Stl'atl'imx maintain with the landscape, Stl'atl'imx culture. Linear developments such as transmission lines, highways, and pipelines have long been recognized as among the most environmentally and culturally disruptive. Unlike mining operations or other more centralized developments that have an intense but relatively short life span, linear developments impact a much greater portion of the landscape for a much longer period of time. Linear developments are most often built to last in perpetuity; they produce long-term, ongoing and direct impacts (including maintenance, landscape alienation etc.) and invite a vast array of secondary impact (e.g. hydro line maintenance roads provide backcountry vehicle access where none existed previously).

Given the preceding definition of cultural landscape, and the impacts to it resulting from BC Hydro's historic and ongoing activities, the following principles are used to guide the development of this long-term Stl'atl'imx Heritage Management Plan.

These principles are;

- All of the Stl'atl'imx territory is considered part of a single cultural landscape. As such heritage management must respect the interconnectedness of all aspects of that landscape.
- Each generation of Stl'atl'imx inherits the cultural landscape from their ancestors and used and builds upon the knowledge passed down to them.
- The Stl'atl'imx are interested in pursuing long-term research in cooperation with other individuals or institutions provided that research meets or is consistent with Stl'atl'imx objectives;

- Enhancement of internal capacity in all fields of cultural heritage is a primary goal of the Stl’atl’imx Nation Heritage Management Plan.

With these principles in mind, the following phases are present as important components for achieving an understanding of the Stl’atl’imx cultural heritage.

Table 5: Summary of Cultural Heritage Projects

Project Name	Duration	Estimated Budget
Land Use and Occupancy Study (LUOS)	3 to 5 years	Feasibility Study: \$367,000 LUOS Annual Budget Estimate: \$750,000 x 5 years = \$4,117,000
Heritage Inventory and Assessment	3 to 5 years	Approx. \$1,300,000
Establish Cultural Heritage Centre(s)	Ongoing	Capital Costs: \$3,000,000 Annual Physical Plat Costs: TBD Annual Staffing/Operation Costs: \$ TBD Additional Facilities: \$ TBD
Protection of Cultural Landscapes	6 to 8 month feasibility study	Feasibility Study: \$150,000 Establishment of Cultural Landscape: TBA on completion of Feasibility Study
Capacity Building	Ongoing	Grade School Capacity Building \$250,000 annually Post-Secondary Capacity Building: \$10,000 per semester/per student
Special Projects Fund	Ongoing	\$500,000 annually (funds not used to carry over to the next fiscal year to meet the \$500,000 budget).

3.1 Land Use and Occupancy Study

The purpose of the Land Use and Occupancy Study (LUOS) is to collate and map the collective knowledge of the Stl’atl’imx Nation. More specifically, the LUOS identifies geographic location of cultural, economic, social, and ceremonial or other significance, records the use (whether physical or otherwise) of that location with as much time depth as possible. The mapped (GIS platform) information can be compared with the location of proposed or ongoing land-altering activities to determine if those developments come into conflict with Stl’atl’imx heritage sites. This information can then be used to guide policy, make management decisions, or institute mitigation plans, among others. In addition, maps can be used to inform research or in the schools as a platform for cultural awareness and education.

⁷ It is anticipated that several of these projects could, in part, occur concurrently.

A LUOS usually involves the following step (Table 6). A feasibility study is required as a step necessary to work with the communities to outline the scope and define the priorities for the larger LUOS. The feasibility study is expected to take 8 to 10 months to complete with three full-time Stl'atl'imx staff, one ¼ time SCC Staff, and the consulting services of an anthropologist/archaeologist. Estimated costs for the feasibility study are approximately \$367,000 (Appendix B).

Considering the number of communities involved, and the scope of a project of this size, it is anticipated that the wider Stl'atl'imx LUOS would take 3 to 5 years. At the end of that time, baseline information would exist that could be added to for generations to come. Until the feasibility study is complete, it is difficult to anticipate the costs associated with a LUOS of this scope. However, based on budgets used in other LUOS conducted by other Nations, an annual budget of \$750,000 would not be unreasonable.

Table 6: Land Use and Occupancy Study Steps

LUOS Step	Description	Tasks
1	Feasibility Study to be Conducted in Year 1	Work with the Heritage Advisory Committee to identify: <ul style="list-style-type: none"> • Information sharing protocols • Inventory information/knowledge currently maintained by each community • Conduct skills inventory to identify community capacity (Heritage, GPS and GIS workers) • Develop timeline and action plan for addressing priority LUOS areas for each community • Develop overall LUOS action plan
2	Community Planning to be Conducted in Year 1 and 2	<ul style="list-style-type: none"> • Work with communities to refine methodology and interview questions directed by the information sharing protocols and priorities established in Step 1
3	Archival Research to be Conducted in Year 3	<ul style="list-style-type: none"> • Collect, collate and map knowledge currently housed in community offices, archives, libraries and households • Collect, collate and map information housed in local, Provincial, and Federal holding institutions
4	Community Interviews to be Conducted in Year 3	<ul style="list-style-type: none"> • Interview community members across a wide demographic to capture land use and occupancy knowledge/information. This involves taping, transcribing, GIS mapping and archiving interviews
5	Community Interface Development To be conducted in Year 4 and 5	<ul style="list-style-type: none"> • Using computer mapping technologies, develop and implement a data storage and retrieval process that is accessible (with restrictions) to community members, researchers, land use managers etc.
6	Maintenance	<ul style="list-style-type: none"> • Because land use and occupancy is ongoing and

		dynamic, a LUOS never produces a static product. Consequently, there should be a budget and time set aside for ongoing, periodic updates to the baseline data. The updating process could form part of the one of the goals of the Policy and Research Centre
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3.2 Heritage Inventory and Assessment

This project can be considered the field work portion of the land use and occupancy study. Land use and occupancy knowledge is typically mapped on 1:50,000 scale and the scale makes it difficult to pin-point the exact location of specific use areas. During a heritage inventory, a crew would be deployed to travel through the territory to visit and more accurately map a selection of LUOS use areas with Global Positioning Systems (GPS) and other mapping technology. While locating these sites the crew can also assess the extent, condition and integrity of the site (its general preservation given natural or human-made disturbances). This type of inventory differs from the archaeology work outlined in the first section of this document in that the crew is not restricted to exclusively recording archaeology sites, they can inventory all Stl'atl'imx heritage site types throughout the cultural landscape.

Depending on the results of the first phases of the LUOS, it is anticipated that the first field season of inventory could follow the first year of LUOS implementation and then run simultaneously with the LUOS throughout the next 3 to 5 years. It is likely that some inventory work, on Stl'atl'imx heritage sites that have not bene inventoried, and developments will occur.

An projected cost estimate for this project is included in Appendix C. Budgetary expenses for this project are based on an inventory of 75 sites per year for 5 years (N=375) with an estimated cost of \$1,300,000.

Table 7. Heritage Inventory and Assessment

Step	Description	Tasks
1	Community Consultation and Planning	<ul style="list-style-type: none"> • Work with Heritage Advisory Committee to establish inventory methodology and protocols • Establish communications plan
2	Select sites for Field Investigation	<ul style="list-style-type: none"> • Based on LUOS prioritize areas that need heritage work
3	Conduct Field Investigation	<ul style="list-style-type: none"> • Using a collaborative methodological approach designed in consultation with communities, locate, assess and map sites
4	Collate Field Data	<ul style="list-style-type: none"> • Using the LUOS GIS platform, map field data and enter into database

5	Communicate Data	<ul style="list-style-type: none">• With an information sharing protocol in place, establish a method to transmit data to land use planners, educators, researchers etc.
6	Maintenance	<ul style="list-style-type: none">• Revisit a select number of sites to record any changes to site condition/integrity etc. and continue to survey new areas

3.3 Establishment of Cultural Heritage Centre(s)

BC Hydro's operations and activities have directly and profoundly impacted Stl'atl'imx culture as well as the cultural landscape. Consequently, the establishment of Cultural Heritage Centre(s) is viewed as one way to remediate past and future impacts. Services offered by a Cultural Heritage Centre include, but are not limited to, the following:

- A central repository⁸ for LUOS knowledge, artifacts (including those repatriated from various holding institutions worldwide), and other records pertaining to Stl'atl'imx cultural heritage;
- A Heritage Policy Development and Research Office. The responsibilities of this office include the development, implementation, and management of the Cultural Heritage Policy. The office would also be responsible for development-related referrals, managing non- Stl'atl'imx requests for access to Stl'atl'imx cultural heritage sites, knowledge, and work with communities to support community driven research projects;
- A language preservation and education division. Building upon the work already underway at the USCLES, this office would offer a facility for language classes and serve as a central repository for language archives (in paper, tape or digital forms) etc.;
- A capacity building and education division. The office would be responsible for working with post-secondary education and training institutions to provide accessible and meaningful educational opportunities that would lead to long-term employment opportunities in heritage-related fields
- A cultural tourism and economic development division. This office would be responsible for working directly with the Nation and communities to develop, implement, support and manage eco and/or cultural tourism through the Nation.

Capital costs for the construction of a single cultural centre are estimated at \$3,000,000. A detailed annual operating budget, including physical plant maintenance/operation, staffing costs etc. will need to be further studied. Further planning also needs to be

⁸ In order to qualify as a central repository for heritage materials derived from archaeological or other projects, or for repatriated items, the cultural centre(s) must meet museum standards for security, temperature and humidity control, as well as provide adequate storage, research and analysis facilities.

completed to determine what additional facilities will be necessary to provide these services for the Nation.

3.4 Protection of Cultural Landscapes

Given the fact that BC Hydro has directly and indirectly impacts much of Stl'atl'imx territory, and that those impacts are ongoing and (particularly in the case of secondary impacts) expanding, it is becoming increasingly necessary to preserve a portion of the cultural landscape from further impact. The preservation of specific cultural landscapes can provide opportunities for education and research that enhance our understanding of how the Stl'atl'imx communities are interconnected. Consequently, we seek to preserve specific cultural landscapes that integrate a series of interconnected heritage sites. For example, this approach ensures the protection of a watershed that contains pre and post contact village site locations, trails, camps and hunting stations, plant and medicine resource gathering areas, sacred and ceremonial sites. In addition, there are several sites, including Keatley Creek, Bridge River, Bell Site and Seton Village, which illustrate our ancient and ongoing presence and use in the territory.

The means through which the Stl'atl'imx will explore cultural landscape preservation and management, a feasibility study will be undertaken to:

- How the Stl'atl'imx define cultural landscapes, conceptually and physically;
- Community discussions regarding priorities for cultural site/landscape protection;
- Education, economic (via cultural tourism etc.) research opportunities provided by the preservation of one or more cultural landscapes;
- Selection and designation of Stl'atl'imx Nation Heritage Site and the implications of adding Provincial, Federal and World Heritage Site designation to one or more of the Stl'atl'imx National Heritage Sites; and,
- Budgetary, staffing, and managerial requirements for the selection, implementation, management and maintenance of a cultural landscape and associated educational, research, and economic development opportunities.

A feasibility study of this nature is estimated to cost \$150,000. A more detailed breakdown of estimated costs is included in Appendix D.

3.5 Capacity Building

The expansion and enhancement of internal capacity is one of the primary goals for all the projects outlined in the Stl'atl'imx Heritage Management Plan. The Stl'atl'imx Nation is committed to internal capacity building and ensuring that qualified community members maintain long-term educational and employment opportunities. Heritage projects that are conducted in Stl'atl'imx territory will require qualified and trained personnel to undertake administrative, leadership, technical and fieldwork opportunities. To this end, there is a need for funding to be allocated to providing education and training opportunities for Stl'atl'imx people.

The cost estimates provided for the archaeological work and other projects have taken into account the fact that individuals will receive pay increases once they gain a specified amount of experience. In addition, there will be opportunities for Stl'atl'imx staff to obtain formal education and training in one or more of the heritage-related fields.

3.5.1 Post-Secondary Capacity Building Initiatives

There are several universities and colleges working in Stl'atl'imx territory that can provide post-secondary opportunities for Stl'atl'imx staff or contractors. For example, Stl'atl'imx field technicians could participate in an archaeological fieldschool to gain excavation, mapping, survey skills and artifact analysis training prior to working on one of the projects noted above. The field technicians can earn university credit while making a training wage and acquire transferable job skills.

It has been noted that one of the most significant barriers to education in Aboriginal communities is the fact that many students who wish to attend full-time post-secondary or other advanced training encounter a number of barriers. For example, for those with children or other dependents, the costs to travel to a training institution coupled with those of maintaining two households while in school (including costs for day care) are prohibitive. In order to remove this barrier, a training wage will be instituted. This wage will cover the basic cost of living for the student. The student would also be offered the opportunity to participate in summer or between semester employment programs relevant to their particular field of study so that they might acquire valuable on-the-job skills to compliment their academic or vocational training. These initiatives would go a long way toward combating the issues of Stl'atl'imx student engagement and retention.

Table 2 estimates the cost for each semester that a student attends a post-secondary or other advanced training centre. Students would receive a training wage while attending full-time studies as a means to defray the cost of living expenses. The training wage (\$15 /hr.) plus tuition and supplies for each student are anticipated to be approximately \$10,000.00 per semester.

Many institutions in British Columbia and Alberta are offering 3 semester per calendar year which require students to attend for a 12 month period. The annual cost of education per student would be approximately \$30,000.

Funding for education may also come from other Nation sources and has not been included in the annual budget plan for Heritage. However, it should be noted that capacity building and the training of qualified staff is fundamental to the implementation of the Heritage Management Plan.

Table 8. Post-Secondary Costs Per Semester/Per Student

Item	Semester Cost
Training Wage (\$15/ph)	\$7200

Tuition	\$2000
Books/Supplies	\$800
Total Semester Cost per individual	\$ 10,000

3.5.2 Grade School Capacity Building Initiatives

In addition to providing access to post-secondary and/or skill related education, the Stl'atl'imx are establishing the means to build capacity for future generations. Stl'atl'imx children must be introduced to the career options available to them, provided the support to ensure they can successfully attain their career goals, and know that there are job opportunities available to them post-graduation. To this end, the Sta'atl'imx have estimated an annual budget of \$250,000 to undertake the following initiatives⁹

- Job fairs in elementary and high schools
- The development and implementation of work-study programs for high-school students
- Elder/youth culture camps
- Job Shadow programs
- Board approved course in both School Districts
- Eco-tourism training
- Summer co-op terms/summer employment

3.6 Special Project Fund

The Stl'atl'imx Nation recognizes that there are projects that may not fit within the scope of those outlined above but which further mitigate BC Hydro's impacts. For example, there could be one-time fixed cost projects, such as the restoration of historic buildings etc., that might serve to mitigate BC Hydro's impacts but the costs may not be feasible to include within another project budget. Consequently, an annual \$500,000 special projects fund will be established as a source of grant money, for special research or other cultural heritage projects, accessible to the community, Nation, or outside researchers as determined by the Stl'atl'imx Nation. The fund would be reviewed annually and would include funds not used in the previous year to a maximum of \$500,000 per annum.

⁹ It is anticipated that this budget would provide a salary for one or more education coordinators, and cover the costs associated with several initiatives (including elder honoraria, materials and supplies for job fairs, development of work-study programs etc).

Appendix A:
Cost Estimates for Cultural Site Mitigation

St'at'imx Cultural Heritage Management Plan		Project Manager	Project Director	Field Archaeologist	Field Archaeologist	Field Technician	Field Technician	GIS/GPS Tech.
Phase Five: Develop and Implement Mitigation / Remediation Plans for Sites Located in Phase Three, and Assessed During Phase 4.		SCC Staff	Name	Name	Name	St'at'imx Name	St'at'imx Name	James
Task #	Task	\$600	\$600	\$450	\$450	\$250	\$250	\$600
500	Develop site specific mitigation / remediation plans (community liaison)	22	22	10	0	10	10	1
501	Liase with BCH:re: operational considerations / timing	15	10	0	0	0	0	0
502	Complete mitigation of Sites Identified in Phase Three [Arcas 1999]	25	25	200	0	200	200	25
503	Complete mitigation of Sites Located and Assessed in Phase Four***	25	50	200	0	200	200	25
503	Update / Complete Archaeological Site Inventory Forms	20	100	50	0	150	150	25
504	Reporting	20	75	50	0	100	100	25
599	Administration (including project meetings)	20	20	10	0	10	10	10
TOTAL DAYS / INDIVIDUAL		147	302	520	0	670	670	111

***Number of field days will depend upon site-specific mitigation/remediation plans. The number of days here reflect the assumption that an additional 160 sites (in addition to the 160 recorded by Arcas) will be identified and assessed in Phase Four, and mitigated here.

Appendix B:

Cost Estimates for Land Use and Occupancy Feasibility Study

Stl'atl'imx Cultural Heritage Management Plan		Project Manager	Project Director	Researcher	Researcher	Capacity / Data Entry	Field Technician	GIS/GPS Tech.	TOTAL FEES	Mileage (\$0.40/km)
Appendix B: Cost Estimate for Land Use and Occupancy Study (LUOS) Feasibility Study		SCC Staff	Anthropologist	North Comm. Rep	South Comm. Rep	Student	Name	Name		
Task #	Task	\$600	\$600	\$250	\$250	\$200	\$250	\$600		
100	Internal Project Meetings and Planning	5	5	5	5	5	0	0	\$9,500	\$2,000
101	Develop Information Sharing Protocols with Communities	25	25	25	25	25	0	0	\$47,500	\$5,000
102	Inventory Community Information	25	35	60	60	60	0	0	\$78,000	\$5,000
103	Community Consultation re: Action Plan / Priorities	25	25	25	25	25	0	0	\$47,500	\$5,000
104	Create LUOS Action Plan	15	15	5	5	5	0	7	\$25,700	\$2,000
105	Community Review of Action Plan / Edits	15	15	15	15	15	0	0	\$28,500	\$5,000
106	Administration	15	15	5	5	5	0	0	\$21,500	\$1,000
TOTAL DAYS / INDIVIDUAL		125	135	140	140	140	0	7	\$258,200	\$25,200

		Per Diem and accomodation (\$50 per diem/ \$80 hotel)		
\$1,750	\$1,000	\$500	\$0	
\$6,000	\$11,000	\$750	\$0	\$5,250
\$6,000	\$500	\$2,500	\$0	\$22,750
\$3,000	\$11,000	\$1,000	\$1,000	\$14,000
\$2,000	\$500	\$600	\$0	\$21,000
\$3,000	\$11,000	\$600	\$0	\$5,100
				\$19,600
\$5,000	\$11,000	\$2,500	\$1,500	\$21,000
\$26,750	\$46,000	\$8,450	\$2,500	\$108,900
				TOTAL EXPENSES
				TOTAL PROJECT
				\$367,100

Appendix C:
Cost Estimates for Heritage Inventory

St'atl'imx Cultural Heritage Management Plan		Project Manager	Project Director	Field Arch/Anth	N. St'atl'imx Rep.	S. St'atl'imx Rep	Capacity	GIS/GPS Tech.
Heritage Inventory		SCC Staff	Name	Name	Name	Name	Student	Name
Task #	Task	\$600	\$600	\$450	\$300	\$300	\$250	\$600
300	Project Mobilization	5	5	5	5	5	5	1
301	Community Liaison (Interviews) re: Site Locations	25	25	25	25	25	25	5
302	Select Heritage Site Locations	5	5	5	5	5	5	5
303	Field Assessment (Locate, determine extent, map [GPS/GIS])	100	200	300	300	300	300	2
304	Complete LUOS heritage inventory forms	25	25	50	100	100	100	50
305	Data entry and mapping	20	25	50	50	50	50	25
306	Community Liaison re: progress and updates	25	25	25	25	25	25	25
307	Reporting	25	50	25	25	25	25	25
399	Administration (including project meetings)	10	15	15	15	15	15	5
	TOTAL DAYS / INDIVIDUAL	240	375	500	550	550	550	143

Appendix D:
Cost Estimates for Cultural Landscape Feasibility Study

Stl'atl'imx Cultural Heritage Management Plan		Project Manager	Project Director	Researcher	Researcher	Capacity / Data Entry	GIS/GPS Tech.	TOTAL FEES	Mileage (\$0.40/km)
Task #	Task	SCC Staff	Anthropologist	North Comm. Rep.	South Comm. Rep.	Student	Name		
	Cultural Landscape Feasibility Study	\$600	\$600	\$250	\$250	\$200	\$600		
100	Internal Project Meetings and Planning	1	1	1	1	0	0	\$1,700	\$200
200	Community Consultation re: Define Cultural Landscape	11	11	11	11	11	0	\$20,900	\$2,500
201	Community Consultation re: Priority Landscape Selection	11	11	11	11	11	0	\$20,900	\$2,500
300	Research Education / Ec-dev / Research Opportunities	10	10	5	5	5	0	\$15,500	\$750
301	Report Research Results (Community / SCC brief)	10	10	5	5	5	1	\$16,100	\$1,500
400	Research land acquisition/ tenure issues for Selected landscapes	5	5	5	5	2	0	\$8,900	\$750
401	Final report	10	10	10	10	5	0	\$18,000	\$500
	Administration	7	5	2	2	2	0	\$8,600	\$750
	TOTAL DAYS / INDIVIDUAL	65	63	50	50	41	1	\$110,600	\$9,650

SCHEDULE 5

LOWER BRIDGE RIVER FLOW AMDM FRAMEWORK

1.0 Introduction

This document describes the application of the Bridge River Structured Decision Making (SDM) Framework to a decision process for selecting flows for the Lower Bridge River. Section 2 summarizes background information about the Bridge-Seton system and the decision making process. Section 3 describes the key elements of the analysis and deliberations that occurred at each step of the SDM process. Section 4 summarizes conclusions and recommendations from the process.

2.0 Background

The Bridge River is a tributary of the Fraser River, in southwestern British Columbia, Canada. It produces significant runs of salmon, provides habitat for birds and wildlife, and is of cultural importance to the St'at'imc Nation. It also hosts two reservoirs and three electrical generating stations (as part of BC Hydro's Bridge-Seton facilities).

After construction of the Terzaghi Dam in 1960, with the exception of occasion flood flow releases almost all flow from the Bridge River system have been diverted into the adjacent Seton-Anderson watershed. As a consequence of this diversion, a 4-km section of the river channel immediately below the dam was left essentially dry, and flows on the river as a whole (fed downstream by groundwater and tributary inflows) were greatly reduced. Beginning in the mid-1990s, studies were initiated to support and guide decisions about restoration of ecological productivity in the river. To resolve flow management issues an interim water budget for continuous flow releases of 3 cms-y was established in 2000 prior to completion of a more comprehensive water use plan (WUP), which involved input from multiple parties. At this time it was recognized that substantial uncertainty remained with respect to relationships between flows and a variety of ecological, social, economic, and cultural considerations. A decision was made to initiate empirical flow trials to evaluate fisheries and other ecological considerations on the river in response to controlled changes in water flows. A flow release of 3 cms-y became the first treatment and has been in place for the past seven years.

To support the implementation of the flow trials an extensive monitoring program was begun in the 1996 and, as a result, a comprehensive data set now exists for understanding ecological responses to flows under both the 0 and 3 cms/y water budgets. In recent years, substantial attention also has been given to a variety of possible habitat restoration and enhancement projects. These discussions recognized that habitat restoration could be confounding to experimental flow trials, but suggested careful implementation strategies would allow habitat restoration to be applied in concert with flow changes to achieve fisheries objectives (stated in the draft Bridge-Seton WUP guidelines as "maximizing the abundance and diversity of fish populations in the river"). The discussion of enhancement options also has been informed through discussions with St'at'imc, who have identified a variety of enhancement opportunities.

In 2007, a technical working group (TWG) composed of representatives of BC Hydro, St'at'imc, Ministry of Environment, and Fisheries and Oceans Canada, along with consulting ecologists and fisheries biologists and decision analysts, was formed to develop a decision framework for the evaluation of alternative flows on the Lower Bridge River. The goal was to help provide the basis for defensible and broadly accepted flow recommendations that incorporate monitoring and learning over time. It was also hoped that key elements of the decision approach developed for the Lower Bridge River could serve as a model for related resource management efforts in the Province.

A structured decision making (SDM) framework was developed to guide the process. The framework is intended to inform both immediate flow decisions (2008) and future decisions (over the next 20 years). By establishing the framework proactively, the intent is to ensure that (a) all parties agree on the criteria and process for making a flow decision, and (b) appropriate data are collected so that informed choices can be made over time. While the current decision is focused on experimental flow trials, future decisions will be focused on selecting a comprehensive portfolio of management actions that deliver the best balance across all objectives. This is expected to include both the recommendation of a flow regime and the identification of a set of habitat enhancement projects. Choices will need to be made both within categories (e.g., different flow options) and across categories (e.g., the possibility of lower or higher flows in combination with more or less habitat enhancement). Thus the decision making framework should contain the elements necessary for evaluating a full suite of management alternatives.

The evaluation of any specific flow release proposal rests on an understanding of participants' underlying values – an expression of what matters to those with an interest in the decision. If only one objective were involved, flow decisions would be relatively easy. What makes flow decisions more difficult, and requires an explicit decision making framework, is that multiple objectives – sockeye and chinook salmon in addition to coho, different types of wildlife (perhaps at different reaches of the river), social and cultural values, aesthetics, stewardship and responsibility - are likely to be involved, and some of these sources of value are likely to be more important to some interests than to others. Thus making informed and responsive choices requires an acknowledgement of tradeoffs.

The Lower Bridge River flows decision making process was conducted over 15 months and nine meetings. In addition to successfully establishing a high level of trust and participation among all parties, these meetings – held both locally in Lillooet and in Vancouver, British Columbia -- have accomplished the following:

- 1) May 9, 2007 in Lillooet: established geographic bounds for the project (below the Terzaghi Dam) and reviewed the status of monitoring data.
- 2) June 11, 2007 in Lillooet: identified values held by St'at'imc that would be used to evaluate, from their perspective, the performance of different flow-release alternatives.
- 3) July 16 2007 on the river below the dam: further refined the expressed values of the St'at'imc and allowed other members of the study team to walk along parts of the Lower Bridge River while St'at'imc representatives and ecologists pointed out valued aspects of the river and the aquatic and terrestrial environments.

- 4) October 12, 2007 in Vancouver: clarified key values of BCH, DFO, and MOE, along with other concerns anticipated to be raised by resource users and community members.
- 5) October 30, 2007 in Vancouver: discussed (with TWG members) ways to ensure that the decision framework incorporates opportunities for learning over time, in light of the anticipated availability of monitoring data and the review of the existing state of knowledge regarding the Lower Bridge River system.
- 6) December 4, 2007 in Vancouver: discussed biological measures to help assess alternative flows on the Lower Bridge River.
- 7) February 12, 2008 in Vancouver: developed a common understanding of estimated performance at 0 and 3 cms-y flow regimes, reviewed implications of research findings for flow treatments, and identified design considerations for monitoring.
- 8) April 14/15, 2008 in Lillooet: discussed, at a three-part meeting involving (a) St'at'imc Elders, (b) the Bridge River band, and (c) the Lower Bridge River flows technical working group, various aspects of trade-offs across objectives in light of data quality and ways in which further studies or altered flow hydrographs might assist in mitigation efforts and/or reduce uncertainties over time.
- 9) June 12, 2008 in Vancouver: further evaluated shaping of a 6 cms-y hydrograph to minimize risks to chinook salmon and improve learning ability. Developed preliminary scales for use in evaluating Stewardship, Learning and Cultural Quality.

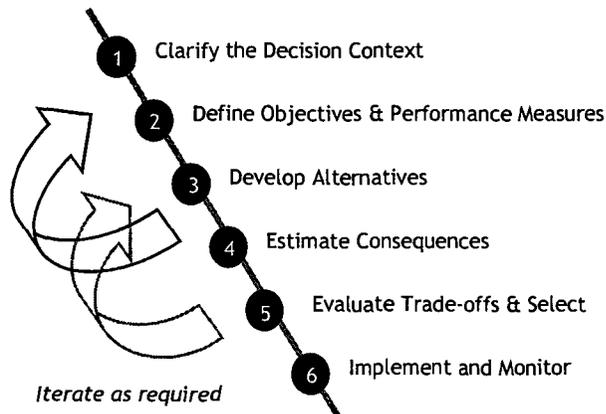
3.0 Applying the Decision Making Framework

The decision making process is guided by five principles, each of which is responsive to the long-term goal of ensuring sound stewardship of resources over time.

- **Value-based** – Choices will be based on seeking an acceptable balance across multiple values, even those that are hard to quantify.
- **Informed**– Decisions will be informed by a common understanding of both facts and values, using both scientific and local/St'at'imc knowledge sources.
- **Collaborative** – The process will focus on mutual learning about objectives and alternatives, and on finding mutually agreeable solutions.
- **Adaptive and Learning-Focused** – Recognizing that uncertainty will always be present, incorporate measures for building capacity for future decisions
- **Transparent** – The process will address a defined series of steps so that the rationale for making choices is clear and so that clear communication with the larger community of interested parties is encouraged.

There are six steps in the structured decision making process (see Figure 1). Progress through these elements is iterative, in that what is learned at one stage often informs earlier steps and may require the modification of earlier choices or definitions.

Figure 1 Steps in Structured Decision Making



This framework is discussed in more detail in a separate document, the “Bridge River Structured Decision Making Framework.”

3.1 Decision Context

At the beginning of this process the first (3 cms-y) trial was underway, as was the monitoring program. However, the set of criteria in use for evaluating flow trials was fairly limited, and all parties expressed interest in developing a more robust multi-objective approach as well as a more collaborative decision making process. The Technical Working Group was formed with a mandate to identify and evaluate alternatives and to make recommendations for the next flow treatment, reflective of the earlier WUP recommendation for an experiment-based approach to evaluation of flows. The need for an explicit decision making framework to link technical analysis and value-based deliberations was identified early on, and it was agreed that a structured decision making approach was appropriate. It also was agreed that if consensus was not reached upon completion of the SDM process, then short-listed alternatives would be documented, along with areas of agreement and disagreement and associated reasons. This information would be forwarded to decision makers.

The range of alternatives under consideration included experimental flow regimes with an annual water budget of roughly 3-6 cms-y and with various seasonal hydrograph shapes. It also included habitat enhancements, with different types and intensities of interventions discussed for reaches 1 to 4 (with reach 4 just below the Terzaghi Dam and reaches 3, 2, and 1 sequentially downriver).

It was explicitly recognized that the current decision, about which experimental flow to implement next (beginning in 2011), will ultimately will lead to a second decision (upon conclusion of the flow trial) regarding which flows to adopt for a more long-term solution (e.g., for the following 15-20 year period). Complementary decisions, as noted above, will involve the choice of habitat enhancement and monitoring projects. Members of the TWG recognized that the decision making framework should be designed to inform these linked decisions, keeping in mind both time constraints and possible interactions or linkages with other related processes (e.g., Water Use Planning, ongoing negotiations between St’at’imc and B.C. Hydro, etc).

3.2 Objectives

In order to evaluate and compare the effects of different flow regimes on the Lower Bridge River, their impacts on a diverse set of objectives need to be identified. The following list summarizes the objectives identified through discussions of the TWG. Although different participants in the process may place different weight or importance on these objectives, all agree that they are relevant to the decision and should be evaluated carefully. Technical studies and monitoring programs have been, and will continue to be, designed to provide information that will allow decision makers to evaluate proposed flow regimes based on a good understanding of how they affect these underlying values.

Salmon, as measured by the fall biomass of chinook, coho and rainbow trout.

Salmon are valued for their cultural and spiritual importance to the St'at'imc Nation, as well as for their importance to commercial and sport fisheries, and their contribution to broader ecosystem health.

Impacts from proposed flow regimes or habitat enhancements on salmon will be reported by *Total Salmonid Biomass*. This indicator will be an aggregate of fall salmonid biomass by species, including coho, chinook, sockeye and steelhead/rainbow trout (see Table 1 for details). Biomass will also be aggregated over reaches. A hierarchical approach will be used to analyze and report impacts. That is, total salmonid biomass is the highest order indicator. We will check whether there are unusual or unacceptable losses or trade-offs either a) among species or b) across reaches. If so, these will be examined in more detail. If not then the aggregate indicator of total salmonid biomass will be used. This reflects an agreement that some losses/gains across species are expected. Losses at the species or reach level will only be considered in detail if they are considered by the committee to be biologically very significant.

While many other indicators were considered, *Salmonid Biomass* is preferred because it is a good integrator of multiple effects – such as wetted area, pools, gravel, temperature, turbidity, etc. Monitoring programs will deliver information about many of these secondary or “explanatory indicators” and will help to build understanding of functional relationships between these factors and salmonid biomass. However, the primary indicator proposed for evaluating the overall performance of flow regimes is salmonid biomass¹.

River Health, as measured by the abundance and diversity of the benthic community.

Beyond species-specific impacts on salmon, an important concern is the overall health of the aquatic ecosystem. The health or productivity of the benthic community is commonly used as an indicator of aquatic ecosystem health. The proposed indicators are also commonly recognized as indicators of benthic productivity.

¹ Juvenile salmonid biomass is used because it integrates effects within the zone of influence of the facility – to minimize confounding effects occurring outside the LBR.

Impacts from proposed flow regimes or habitat enhancements on salmon will be reported by *Percent EPT, Total Abundance and Simpson's Diversity Index*. These indicators are summarized in Table 1.

Riparian Health, as measured by the expected growth rates of black cottonwoods.

The health of the riparian ecosystem determines the quality of riparian habitats for wildlife. With the exception of riverine birds and Harlequin Ducks in particular (see below) which could be affected by instream effects, most wildlife species will be affected primarily by impacts of proposed flow regimes on the quality of riparian habitats. Rather than evaluate impacts on every species individually, this objective is used to assess likely impacts on multiple wildlife species. *Black cottonwoods* are the dominant riparian tree species and are widely used as a key indicator of the health of riparian forests and the quality of riparian habitats for wildlife.

Riverine Birds, as measured by their expected abundance and diversity.

Riverine birds are the primary wildlife species group likely to be affected by instream flow changes. Bird song is an important contributor to what St'at'imc elders have identified as the feel or spirit of the river. The *Abundance* and *Diversity* of riverine birds in the upper reaches (reach 3 and 4) will be measured under alternative flow regimes and will serve as a means of comparing effects on riverine birds. With respect to diversity, the main concern is the overall diversity. Relatively minor changes in species mix are not of concern.

Other Species of Concern, measured in this case by the abundance of **harlequin ducks**.

Species of particular concern include species of particular cultural or conservation importance. In this case, harlequin ducks have been identified as a species of concern in the region. Harlequins nest in tributaries and brood in the Lower Bridge River. Impacts to Harlequin ducks are measured by changes in *Total Abundance* under different flow regimes.

Learning, as measured using a constructed, qualitative learning scale.

This is a measure describing what is learned about how the river and the associated ecological and social outcomes respond to different management actions. It does not address institutional aspects such as learning to improve collaboration among agencies; these aspects are addressed under stewardship. There are at least four important aspects of learning about the river:

- **Quality** of knowledge (some actions might increase the reliability of our knowledge about an outcome or option or about the choice across a suite of options)
- **Breadth** of knowledge (some actions might increase the range of options or outcomes about which we know something, but with limited reliability)
- **Scientific** knowledge (some options might support significant improvements in scientific knowledge)
- **St'at'imc** knowledge (some options might support significant improvements in local or St'at'imc knowledge)

The measure for this objective will be a five-point **Learning Scale**:

- Poor:** The opportunity to learn is negligible, either because of inadequate resources or commitment to monitoring or because the actions taken are already well understood.
- Fair:** Learning will occur but there are serious concerns about the ability to interpret and use findings, either as a result of undetectable effect size or poor monitoring information quality.
- Good:** Learning is anticipated that will be usable in decision making but important gaps (related to endpoints, options or reliability of information) are likely to remain.
- Very Good:** Learning is anticipated that will be usable in decision making and while gaps may remain, learning is either more reliable (better information quality), better addresses a range of endpoints or options, and/or addresses both scientific and St'at'imc knowledge.
- Excellent:** Significant opportunities are expected for enhancing both scientific and local/St'at'imc knowledge with reliable and relevant new information and understanding that will be usable in decision making.

Cultural and Spiritual Quality, which includes the smell, sound, sight and feel of the river.

St'at'imc elders speak of the "spirit" or "voice" of the river. They have observed that in moving from a water budget of 0 to 3 cms-y there have been noticeable improvements in conditions for tangible outcomes like fish, wildlife, and riparian vegetation. But in addition, and distinct from these, there have been improvements in the "spirit" or "voice" of the river. Across the range of proposed flows (including a doubling of the average flows, from 3 cms-y to 6 cms-y), it is anticipated that there is potential for additional beneficial change.

To obtain information to better define this objective, input was collected from interviews with St'at'imc TWG members, from discussions with other members of the St'at'imc community, and from a workshop held in Lillooet to hear the views of invited St'at'imc elders and resource users. From these meetings, four key components of Cultural and Spiritual Quality were defined:

Sound, including:

- The voice of the water
- Birdsong

Smell, including:

- The smell of the water itself
- The ambient smell at water's edge

Movement, including:

- Movement of water (seasonally appropriate)
- Diversity of movement (pools/riffles)

Interaction (of people and water), including:

- Shore access
- "Wade-ability" (the ability to walk in and/or across the river at certain locations)

These four components clearly do not provide a universal definition of cultural or spiritual quality. They define the aspects of cultural and spiritual quality thought to be relevant for the evaluation by St'at'imc of a suite of alternative flow regimes and habitat enhancement activities on the Lower Bridge River, within the (average annual) range of 0 to 6 cms-y.

To improve consistency and transparency in assessment, a **Cultural and Spiritual Quality Scale** and a protocol for measuring it was developed. Initial discussions have concluded that the approach will involve

- a committee of 3-8 St'at'imc members to act as observers;
- observations to be taken four times per year under a range of test flows;
- observations to be taken at two sites per reach over reaches 4, 3 and 2;
- a simple and transparent scoring system for assigning scores to each component in each reach; and
- a plan for aggregating scores across observers, components, reaches and seasons.

Although implementation suggestions are provided in the table shown below, it is recognized that at present this remains a draft procedure because some aspects may change over time as experience is gained in the implementation of the measure and its ability to convey useful information.

This Cultural and Spiritual Quality scale should not be interpreted as an overall or aggregate assessment of St'at'imc concerns. Along with other TWG members, St'at'imc will be monitoring results for objectives relating to salmon, river health, riparian health, learning, and so forth in addition to monitoring results for cultural and spiritual quality. It is conceivable that there will be trade-offs among objectives – for example, one flow alternative may prove to be less beneficial for salmon but more beneficial from the perspective of cultural and spiritual quality, in which case choices will need to be made based on the preferred balance across objectives.

Proposed (draft) Procedure for Scoring Cultural and Spiritual Quality

Who	3-8 members of the St'at'imc community. Continuity in membership is desired, as is the designation of a lead person, to the extent that consistency in the conduct of measurements is essential.
When	Four times per year, at flows and seasons that represent a range of conditions: <ul style="list-style-type: none">- September (low flows, spawning fish present)- February (low flows, winter conditions)- April (moderate flows, spring conditions)- June (peak flows, summer conditions, relatively low fish abundance/visibility)
Where	- Two sites per reach, for each of Reaches 4, 3 and 2.

Individual Reach Scoring	On the designated date and site, each observer will assign a score of 0 to 2 for each of the four components (sound, smell, movement, interaction), where 0 = low quality, 1 = moderate quality, and 2 = high quality. Component scores will be summed for each individual across the two sites per reach and an overall reach score will be calculated, according to the following scale: Poor 0-1, Fair 2-3, Good 4-5, Very Good 6-7, Excellent 8.
Aggregating Across Observers	Observers will discuss individual scoring results and assign group Component Scores and Reach Scores. In the absence of consensus, a simple average of scores across observers will be used, assuming equal weighting of observers and components.
Aggregating Across Reaches	Observers will discuss the three group Reach Scores and assign an aggregated score for the river. In the absence of consensus, a River Score will be calculated by summing the Reach scores, assuming either equal weights for the reaches or differential weights that reflect the relative importance of each reach.
Aggregating Across Seasons and Years	Observers will discuss the four seasonal measures and assign an annual score for the river. In the absence of consensus, an annual River Score will be calculated by summing the seasonal scores, assuming either equal weights for seasons or differential weights that reflect the relative importance of each season.
Supporting Documentation	Conditions at each site will be recorded by video camera and still photography. Protocol to be developed with help from J. Sneep.

Financial Impact, as measured by changes in electricity production and implementation costs.

The change in annual revenue from electricity generation is the indicator of the estimated value of forgone power associated with implementing the flow changes; this indicator represents both the financial implications of reduced power production and associated changes in the system's capacity to generate electricity to meet demand. The annualized implementation costs associated with habitat improvement projects will be the indicator of financial impact for those projects. These will be aggregated in an indicator of *Annual Financial Cost*.

Stewardship, which is a measure of the degree and quality of participation in, and commitment to, the planning and decision making process.

Stewardship is defined as a responsibility to manage the ecological health of the Bridge River system in a way that is sustainable and takes account of future generations. Three core components of stewardship were identified as relevant for this decision process: on-ground outcomes with respect to ecological performance, an appropriate level and quality of participation by those affected, and a long term commitment to oversight, monitoring and capacity building. The first of these is addressed in the multi-attribute decision framework via the ecological endpoints – salmon, river health, riparian health, etc. The second two are addressed by the Stewardship objective.

The measure for this objective will be a **Stewardship Scale**, developed by the TWG. In assessing stewardship, the TWG will consider:

- the number and diversity of parties (agencies, communities, etc.) likely to be involved in stewardship
- the number and quality of opportunities for these parties to be involved (recognizing that the type of involvement considered to be appropriate may vary across parties)
- the degree of collaboration encouraged or required by the nature of the proposed action
- the extent of financial and institutional commitment to active oversight of monitoring and capacity-building.

Poor: One or more of the key parties are not included in active participation and stewardship opportunities are limited.

Fair: All of the key parties are involved but stewardship opportunities are limited.

Good: All key parties are fully involved, and there are moderate opportunities for active stewardship by key parties and affected communities.

V. Good: All key parties are fully involved and there are significant opportunities for active and collaborative stewardship, but with limited long term financial and institutional commitment.

Excellent: All key parties are fully involved, there are significant opportunities for active and collaborative stewardship and there is a commitment to active and on-going oversight, monitoring and capacity-building.

Discussions among members of the TWG raised concerns about whether this objective was relevant to the decision making framework, with respect to whether it would really help to identify, evaluate and compare alternatives. After discussion, the TWG concluded that while the measure might have limited usefulness in direct comparisons of flow alternatives, stewardship considerations were useful in developing a broader package of actions for the overall management of the Lower Bridge River that might be expected to include non-flow alternatives such as habitat enhancement and monitoring activities. Such activities may encourage, necessitate or support greater involvement and collaboration among a broad range of agencies and communities, and thus invoke greater levels of commitment to the overall goal of ensuring sound stewardship of Lower Bridge River resources over time. These benefits are important, and therefore stewardship remains relevant as an objective, and aids both the identification and evaluation of a broad range of alternatives.

Other Objectives

Several additional objectives also were considered by the TWG, including

- Access to and protection of cultural sites (might alternative flows harm or restrict access to sites?)
- Impacts on other parts of the system (might different flows limit the flexibility to manage Seton River flows/operations optimally?)

- Habitat restoration potential (might some flow alternatives offer the potential to do more habitat restoration activity than others?)
- Flooding (might some alternatives affect current infrastructure?)
- Placer miners and other water license holders (might some alternatives affect license holders?)

It was agreed that across the range of flow alternatives proposed, no differences in impacts to these concerns are anticipated. However, this assumption will be confirmed prior to a final flow recommendation being made.

3.3 Alternatives and their Consequences

With respect to management actions that can be taken on the Lower Bridge River, alternatives can be grouped broadly into three categories:

- flow alternatives, including different water budgets and different hydrograph shapes
- habitat enhancement alternatives
- monitoring and learning alternatives

The emphasis to this stage of the TWG discussions has been on flow alternatives. The 2000 Water Use Plan identified three main flow alternatives, along with a base case. The base case consists of a discharge of 0 cms from Terzaghi Dam. The second alternative, flows resulting from a 3 cms-y water budget, has been in place for the past 7 years. The third alternative is a proposed 6 cms-y water budget, which is based on the outcome of the 2000 WUP but also has been subject to further fine-tuning, analysis, and deliberation prior to implementation as a result of the TWG discussions.

Because an extensive monitoring program has been in place since the early 1990s, a comprehensive data set now exists for both the 0 and 3 cms/y water budget discharge regimes. Consequences for these two alternatives, shown in Table 2, were estimated using this data set. (In addition to actual data for these two flow regimes, Table 2 also reports hypotheses of what will happen under a 6 cms flow regime – see below.) For the flow increase from 0 to 3 cms-y water budget, the following key performance changes were noted:

- **Salmon:** On an aggregate basis, salmon (including chinook, coho and rainbow trout) biomass is up. Biomass is down in Reach 3, caused by losses in chinook and RB1 (age-1 rainbow trout). There are competing hypotheses about whether these losses are real permanent losses, or the result of measurement error (RB1) or life history changes (chinook). Therefore there are competing hypotheses about whether these effects will be exacerbated under 6 cms/y water budget flows.
- **River Health:** On an aggregate basis, all benthic indicators improve under the 3 cms/y water budget flows. Analysis of the reach-specific data show that this is primarily driven by improvements in Reach 4, where previously dry substrate is wetted. Both abundance and diversity unambiguously improve in Reach 4 in all seasons under the 3 cms/y water budget flows. In this section of the river, wetted area change dominates all other factors affecting benthic health. In the remainder of the river, where water was already flowing and benthic health was already good, wetted area changes are only one of several factors influencing benthic health, and these other factors dominate. The net flow effect in Reaches 2 and 3 is ambiguous.
- **Riparian Health.** The annual growth rate for cottonwoods does not change with higher flows. Growth rates for juvenile cottonwoods increase, primarily due to the

- wetting of Reach 4. Under a 6 cms-y water budget flow regime, additional increases in cottonwood growth rates are not anticipated, although it was noted that increases in adult growth rates are possible.
- **Riverine Birds.** An increase in numbers is observed in Reaches 3 and 4 based on counts of the five dominant bird species. This was again primarily due to new habitat created through the rewetting of Reach 4. No increase in density was observed. Neither increases nor significant risks/reductions under higher flows are anticipated.
 - **Species of Concern.** With the increase in wetted area in Reach 4, higher numbers of ducks are observed. Neither increases nor significant risks/reductions under higher flows are hypothesized.
 - **Learning.** A substantial amount of learning occurred under the 3 cms-y flow regime, due to intensive monitoring of physical and biological endpoints. The score of Good (as opposed to Very Good or Excellent) reflects limitations in the suite of endpoints that were monitored and the gap with respect to incorporation of local / St'at'imc knowledge.
 - **Cultural Quality.** A substantial improvement in quality was observed in Reach 4 and to a lesser extent in Reach 3. This improvement is not characterized in Table 2 as the scale for reporting improvements in cultural quality is still being tested. A method to retroactively score the 3 cms flow will need to be developed.
 - **Stewardship.** The quality of stewardship improved from Poor under the unilaterally imposed 0 cms flow, to Fair under the court-imposed 3 cms-y flow, and ultimately Good with the consensus of the multi-party WUP committee on the 3 cms-y flow test.

Based on these results, the technical team also provided hypotheses about what might be expected under a proposed 6 cms-y flow regime. The “consequences table” shown in Table 2 summarizes these results as well, showing hypotheses for a “base-case WUP” 6 cms-y proposed flow trial. In general, TWG members felt that (a) there was uncertainty associated with these predictions, and (b) there were substantial opportunities for modifying some of the anticipated outcomes through further intra-annual refinement of flow releases. Thus these predictions served as a starting point for further discussions among TWG members concerning requirements for additional monitoring and the benefits of additional management actions (e.g., modifications to a 6 cms-y water budget hydrograph, enhancement options), as discussed later.

As a result of this review, participants considered the following three alternatives as the next step in the experimental process.

- **Pause at 3 cms** – Hold flow releases at the 3 cms-y flow regime for a period of time in order to improve the quality of data collected so far, and thus enhance Learning. In particular, some difficulties were encountered with measurement/monitoring at 3 cms, especially for RB1 (age 1 rainbow trout). An extension of the 3 cms flow regime would help to ensure that future evaluations were based on a reliable understanding of impacts at 3 cms/y water budget.
- **Stop at 3 cms with Habitat Enhancement** – Given the modest estimates of potential benefits of a 6 cms/y water budget, it was suggested that one alternative worth considering may be to stop the testing and begin immediate implementation of a program of habitat enhancements designed to complement a 3 cms-y water budget flow regime. This would result in immediate realization of the benefits of habitat enhancement rather than deferring those benefits for another flow test period.
- **Further design and tests of 6 cms** – Although the predicted outcomes are uncertain, both potential risks and potential benefits are associated with a WUP-based 6 cms-y flow regime. The technical team estimated that potential benefits for

overall salmon biomass, if they occur, are likely to be modest and might be offset by species-specific risks to chinook. No significant benefits are expected for river health. Benefits for riparian health, if they occur are expected to be modest. Benefits for cultural and spiritual quality are judged by St'at'imc elders to be possible.

It was recognized that the choice between these alternatives depended in large part on the risk tolerance of participants, in particular the uncertainty regarding risks to chinook salmon populations, and to the quality of learning. As a result, members of the TWG were asked to consider these risks in more detail.

3.4 Clarify Uncertainties and Trade-offs

After a review of the evidence, members of the TWG agreed that:

- Evidence suggests that there may be negative impacts on chinook as a result of the 3 cms test flow;
- The extent and seriousness of these impacts can't be known for sure until more reliable escapement data have been collected;
- The probability of significant risks to year-one rainbow trout is low, and that a program to improve monitoring capabilities under high flows should be able to improve the reliability of data that is collected;
- Risks to chinook may be exacerbated under a 6 cms-y water budget flow regime, but this is uncertain;
- Options may exist to mitigate these adverse effects, including mixing through spill gates (likely to have minimal impact) and developing a modified hydrograph.

These conclusions, along with the consequences table (Table 2) served as the basis of more in-depth consultations with St'at'imc community leaders. Discussions focused on understanding the risks associated with the 6 cms/y water budget alternative – to chinook and to learning quality – and how these risks might be mitigated. Input from St'at'imc communities living along the river indicated that they strongly supported continued testing of the river in order to learn about the response of the river to different flows. While concerned about the potential for negative long term chinook impacts and the potential for insufficient information quality, both TWG members and local communities supported “Test 6 cms” option, with the caveat that alternatives for mitigating risks to chinook and to learning be explored.

While a final decision would depend on the outcome of this additional evaluation, the TWG at this stage made a preliminary decision to focus on the “Test 6 cms” option. The recommended next step was to identify and evaluate alternative hydrograph shapes at 6cms with the goal of mitigating the risks to chinook and to learning quality, and balancing these risks against anticipated effects on rainbow trout and other species. A need was also identified to develop a more refined monitoring plan, focused on an improving understanding of the implications of a revised hydrograph and also ways to reduce the uncertainty associated with the measurement of effects on chinook salmon and other measures.

3.5 Iteration and Refinement of 6 cms-y Options

At this point, a new set of 6 cms-y water budget alternatives was generated, consisting of variations on the shape of a 6 cms hydrograph. The TWG made use of a streamlined structured decision making process to examine these options: objectives and measures

for the hydrographs were defined, and various alternatives were developed that could be tested against these measures. Ultimately, several different hydrographs were proposed. Each then was evaluated against four measures:

- **Chinook**, as measured by estimated emergence timing in Reaches 2 and 3 as a function of stream temperature.
- **Ability to learn**, as measured by the magnitude of dam releases during stock assessment in September. Higher releases during stock assessment will reduce monitoring accuracy and introduce bias relative to monitoring that has been done under 3 cms.
- **Other Fish Impacts**, including *Overwintering Habitat* (as measured by magnitude of winter flows), *Scour Potential* (as measured by maximum dam release) and *Redd Dewatering Risk* (as measured qualitatively by the timing and steepness of the hydrograph), and *Rearing Habitat* (as measured by the maximum summer dam release). The intent was not specifically to enhance these, but rather to ensure that no new risks were imposed as a result of changes proposed for other purposes.
- **Riparian health**, as measured by the overall maximum dam release, which could at high enough flows, have negative impacts on cottonwood growth. As for “other fish impacts”, this measure was used simply to check that no new risks were created.

Six alternative hydrograph shapes were identified and evaluated by a subgroup:

1. Retain the **WUP hydrograph** shape with double the water budget.
2. Use a “natural” Bridge River hydrograph shape – normalized to the **historic mean monthly** flows (from pre regulation WSC Lower Bridge River, at Shalath gauge data), which has the effect of greatly increasing summer maximum flows (which could have adverse impacts on riparian habitats due to scouring) and greatly decreasing winter minimum flows (to about 1 cms).
3. Use the “natural” Bridge River hydrograph shape but provide **winter flow augmentation at 2 cms** to provide more habitat and to protect overwintering juveniles.
4. Use the “natural” Bridge River hydrograph shape, with **overwintering flow augmentation at 1.5 cms**, but introduce **fall ramping** to reduce fall dewatering risks and further improve (reduce) temperatures for Chinook incubation.
5. Use the “natural” Bridge River hydrograph shape, with **overwintering flow augmentation at 2 cms**, but introduce **late summer ramping** to reduce fall dewatering risks and further improve (reduce) temperatures for Chinook incubation.
6. Use the “natural” Bridge River hydrograph shape, with **overwintering flow augmentation at 1.5 cms**, but introduce **late summer ramping** to reduce fall dewatering risks and further improve (reduce) temperatures for Chinook incubation.

The implications of these options, as prepared by the subgroup and modified by the TWG, are summarized in Table 3. Alternative 6 dominates the other alternatives (has the same or better performance on every performance measure than every other alternative) and the TWG easily reached consensus that it represents the best alternative. Significantly however (and within the range of uncertainty that characterizes these predictions), Alternative 6 is not expected to eliminate or even reduce risks to chinook relative to the current 3 cms flow trial.

3.6 Choose a Preferred Alternative and Learning Program

The TWG made a recommendation to go ahead with this 6 cms-y flow flow trial. Although this decision explicitly accepted the residual risks to chinook, discussions

within the TWG made use of the information from Tables 2 and 3 to continue to examine ways in which monitoring and other management actions could serve to safeguard against negative (and particularly possibly irreversible or catastrophic) implications of this recommended flow. The following changes to the monitoring program were developed as a result of these discussions:

- Streamline monitoring related to benthic health. The river health is currently good. The most significant changes were noted as a result of re-wetting of previously dry reaches. Additional improvements associated with flow changes are not anticipated to be significant. On-going monitoring will focus on periphyton sampling and benthic invertebrates in the fall only.
- Initiate monitoring related to adult chinook, including collecting escapement and scales data. This information is essential for understanding the impact of the 3 cms flow release on chinook. It is likely to be a key factor when evaluating the flow regimes upon completion of the 6 cms flow trial.
- Initiate stock assessment calibration sampling. This is designed to address uncertainties in the stock assessment data
- Initiate monitoring of the cultural and spiritual quality of the river. This will involve site visits by St'at'imc elders and resource users to rate the voice or feel of the river under different flow regimes.

Overall, flow-related monitoring budgets have been both reduced and re-focused as a result of the decision process. Commitment to a reliable information base to inform future decision remains strong.

In addition to these flow-related monitoring programs, two additional needs have been identified.

- The need for information about the expected performance of habitat enhancement programs. In parallel with the implementation and monitoring of the 6 cms flow trial, habitat enhancement opportunities will be identified and evaluated in a format that will allow comparison with flow changes.
- The need for programs to 1) monitoring cultural and spiritual quality, and 2) to enhance St'at'imc ecological knowledge. In parallel with the implementation and monitoring of the 6 cms, needs related to St'at'imc knowledge will be identified and evaluated. These may form part of the ultimate portfolio of management actions that are adopted, along with a flow regime and habitat enhancement options.

4.0 Conclusion

Development of the Bridge River structured decision making framework has resulted in three core recommendations:

- 1) That BC Hydro, St'at'imc, and participating regulatory agencies adopt the Structured Decision Making framework to guide collaborative planning and decision making processes at the Bridge-Seton facilities.
- 2) That an experimental flow trial of 6 cms be initiated as soon as possible, with modifications to the hydrograph shape to minimize risks to chinook and enhance the reliability and comparability of stock assessment measurements.
- 3) That the monitoring program be modified to focus on key information needs likely to inform and affect future decision making.

From a process perspective, participants concluded that:

- the SDM process was useful and can be used as a model to guide other collaborative decision making processes involving St'at'imc, BC Hydro and other agencies;
- the SDM process was useful for guiding the overall decision process over the two year period of deliberations. It was also useful for guiding the TWG's approach to smaller sub-problems, such as the evaluation of alternative hydrographs.

It is anticipated that input from members of the TWG will continue to be required on a periodic basis, to complete and review ratings for several of the constructed scales and to assess information gained as the result of ongoing habitat enhancement and monitoring programs. At this stage, a sound foundation has been set for collaborative resource management decision making among the four TWG participants -- representatives of BC Hydro, St'at'imc, Ministry of Environment, and Fisheries and Oceans Canada -- that supports sound stewardship of resources over time and that provides a defensible basis for communicating the results of these deliberations with other parties and external interests.

Table 1: Objectives/Endpoints and Measures

Endpoint	Measure	Units	Description
Salmon	Biomass (kg)	Kg	<p>The biomass of salmon in the fall. This performance measure integrates abundance and growth responses to change in flow. The more salmon that are present at the end of the growing season in the Fall, the greater the number of smolts potentially going to sea, and therefore the greater the number of returning spawners. Larger fish in the fall will potentially have higher overwinter survival rates compared to smaller ones. They may also migrate as larger smolts, potentially increasing their rate of return to the Bridge River.</p> <p>The measure is computed by first determining the standing stock (# of fish) by species, age group, year, and reach based on fall standing stock surveys. These values are then multiplied by the average weight of a fish (by strata) to determine the total biomass (by strata). Salmon biomass is computed by summing species and age specific estimates. Total biomass for the portion of the Bridge River that is surveyed (reaches 2-4) is computed by summing reach-specific estimates.</p>
	% EPT	%	<p>The abundance of individuals belonging the EPT taxa (mayflies, stoneflies, caddisflies) relative to the total abundance. EPT taxa are generally considered to be relatively sensitive to stream perturbation; therefore a reduced number of EPT individuals relative to total numbers from all taxa may indicate that the stream has been subject to chemical or physical stressors.</p>
River Health	Total Abundance	# of indivs per reach	<p>The total number of benthic invertebrate individuals, calculated as areal density multiplied by wetted riffle area. Benthic invertebrates are an important food source for juvenile salmonids.</p>
	Simpson's Diversity Index	Index	<p>A measure combining the abundance and taxonomic richness of a community. The index value represents the probability of two randomly chosen individuals belonging to distinct families. A value closer to 1 represents a diverse community, while a number closer to 0 represents a community dominated by a few families.</p>
	Family Richness	# families	<p>A count of the number of families present. A greater number of families indicates a more diverse community. Richness weights all families equally, which is a suitable contrast to Simpson's index that weights common families more than rare families.</p>
Riparian Health	Black Cottonwood (Adult)	Radial Increment (mm/y)	<p>Black cottonwood are a key indicator of the health of riparian forests and the quality of riparian habitats for wildlife. Radial increment is a measure of the annual growth rate of reproductively active cottonwoods along the river. It is measured as the increase in the radius of the trunk of trees at breast height.</p>
	Black Cottonwood (Juvenile)	Radial Increment (mm/y)	<p>Black cottonwood are a key indicator of the health of riparian forests and the quality of riparian habitats for wildlife. Radial increment is a measure of the annual growth rate of non-reproductive cottonwoods along the river. It is measured as the increase in the radius of the trunk of juvenile trees at breast height.</p>
	Black Cottonwood (Saplings)	Evidence of Active Recruitment	<p>A binary qualitative measure to indicate whether there has been successful recruitment of cottonwood saplings (2 years or less) 0= none 1= yes</p>

Endpoint	Measure	Units	Description
Riverine Birds	Abundance	Total Count of juvenile and adult birds	Riverine birds are the wildlife taxa that are most dependent on the river and riparian habitats. The measure provides an index of the numerical response of birds to flow changes in the Lower Bridge River corridor. Abundance is measured as the total count of the five most predominant bird species (American Dipper, common Merganser, Spotted Sandpiper, Belted Kingfisher, Harlequin Duck) observed between Yalakom River and Terzaghi Dam during five annual standardized surveys (2 during ascending flow in pairing period [May –Early June], 3 during descending flow [June –August]).
	Diversity	Total count of species	Riverine birds are the wildlife taxa that are most dependent on the river and riparian habitats. The measure provides an index of the change in the diversity of the bird community to flow changes in the Lower Bridge River corridor. Diversity is measured as the total count of the number of species of bird observed between Yalakom River and Terzaghi Dam during five annual standardized surveys (2 during ascending flow in pairing period [May –Early June], 3 during descending flow [June –August]).
Species of Concern	Harlequin ducks	Mean Count per survey during brood	Harlequin Ducks are considered a species of special concern. Harlequin nest in tributaries and brood in LBR. Impacts to Harlequin ducks are measured as total counts of adult and juvenile Harlequin Duck observed between Yalakom River and Terzaghi Dam during three annual standardized surveys during descending flow [June –August])
Cultural & Spiritual Quality	Sound, smell, taste, feel, voice of the river	Constructed Scale	A constructed scale to describe the quality of the feel or voice of the river under different flows. The scale reflects three key components of cultural and spiritual quality: sound, smell, movement and interaction (of people and water). Assigned scores reflect observations of St'at'imc at designated reaches and in designated seasons. An aggregate score will be recorded for the river as a whole under each test flow.
Financial Impact	Revenue	Million \$/year	An index of the economic value of the water released from Terzaghi Dam to accomplish the flows. It is estimated as the product of the foregone energy and the levelized market price for electrical power. This measure also represents the value of reliable power and meeting demand.
Learning	Quality and breadth of knowledge	Constructed Scale	A constructed scale that addresses the quality and breadth of knowledge gained through implementation of the alternatives, with respect to both scientific and St'at'imc/local knowledge.
Stewardship	Participation	Constructed scale	A constructed scale that addresses stewardship , in particular the level and quality of participation by affected parties and the degree of long term commitment to oversight, monitoring and capacity building.

Table 2: Estimated and Hypothesized Consequences*

Endpoint	Measure	Units	Flow Alternatives		6 cms (WUP Shape)	6 cms (New Shape)
			0 cms	3 cms		
Salmon	Biomass - Total	kg	1548	1898	H1: No change H2: Better	H1: No change H2: Better
	Biomass - Chinook (R3)	kg	214	77	H1: Worse H2: No Change	H1: Worse H2: No Change
	Biomass - RB1 (R3)	kg	650	450	H1: No change H2: Better	H1: No change H2: Better
River Health	% EPT - Total	%	32	45	No change	No change
	Abundance - Total	# indiv (millions)	41321	76384	No change	No change
	Simpson's Index - Total	index	0.45	0.63	No change	No change
Riparian Health	Cottonwood Growth	mm/yr	4.3	4.6	H1: No change H2: Better	H1: No change H2: Better
	Cottonwood (Juvenile)	mm/yr	1.9	3.9	No change	No change
	Cottonwood (Recruitment)	yes/no	No	Yes	No change	No change
Riverine Birds	Abundance (R3&R4)	# birds	138	192	No change	No change
	Diversity (R3&R4)	# species	N/A	N/A	No change	No change
Species of Concern	Harlequin Ducks (R3&R4)	# ducks / survey	5	10	No change	No change
Financial Impact	Electricity Generation	million \$/year	0	4.5	Worse	Worse
	Other Implementation Costs	million \$/year	N/A	N/A	N/A	N/A
Cultural and Spiritual Quality	Scale: Smell, sound, movement, interaction	5-point scale	Poor	To Come	Better	Better
Learning	Learning Scale	5-point scale	Poor	Good	H1: No change H2: Better	Better
Stewardship	Stewardship Scale	5-point scale	Poor	Fair/Good	Better	Better

Table 2 Notes

- Biomass Total is the main indicator for salmon. The detailed review by species and by reach showed that the primary additional information relevant to the decision process is the impact on chinook in Reach 3 and on rainbow trout (age 1) in Reach 3.
- H1 is the dominant hypothesis about the direction of change. H2 is a plausible competing hypothesis. Where H1 / H2 does not show, there were no plausible competing hypotheses.
- Other Implementation Costs were not assessed, as these are associated with habitat enhancement projects which are not yet under detailed consideration.
- The Cultural Quality scale is still under development. However, the change under 3 cms flow relative to 0 cms was unambiguously better.

Table 3 Qualitative Evaluation of Alternative 6 cms Hydrographs
 (where shading indicated qualitative judgements regarding performance from the TWG
 Red= Poor, Yellow = Fair, Green = Good)

Objective / Measure	Alternative Hydrographs					
	1	2	3	4	5	6
Chinook Emergence						
Reach 3 - Earliest emergence	23-Nov	25-Nov	25-Nov	26-Nov	26-Nov	06-Dec
Reach 3 - Latest emergence	08-Dec	22-Dec	15-Dec	22-Dec	17-Dec	06-Jan
Reach 2 - Earliest emergence						
Reach 2 Latest emergence	18-Jan	24-Feb	15-Feb	24-Feb	18-Feb	07-Mar
Reach 2 Latest emergence	31-Jan	13-Apr	09-Mar	10-Apr	17-Mar	09-Apr
Learning (Stock Assessment Flows)						
September dam release - bias relative to 3 cms	6	12	12	6	3	3
Impacts on Other Fish						
Overwintering Habitat - Winter Flow (cms)	4	1	2	1.5	2	1.5
Scour Potential - Max dam release (cms)	10	15	15	15	15	15
Redd Dewatering Risk - timing and steepness of hydrograph	low	mod-high	mod-high	mod	low	low
Rearing Habitat - Peak summer flow (cms)	15	15	15	15	15	15
Riparian Habitat						
Maximum dam release (cms)	10	15	15	15	15	15

SCHEDULE 6

SDM PROCESS

1.0 Introduction

This document outlines a framework for guiding collaborative resource management decisions on the Bridge River system. The purpose of the framework is to improve the quality and transparency of decisions, facilitate productive collaboration among parties, and support sound stewardship of resources over time.

Decisions about natural resource management need to take account of a variety of cultural, economic, environmental, and social considerations. Developing defensible and broadly supported solutions for the Bridge River system requires a decision making framework that addresses the multiple values of those with an interest in the consequences of proposed management actions: St'at'imc, BC Hydro, Fisheries and Oceans Canada (DFO), the provincial Ministry of Environment (MOE), and possibly other community, provincial, or federal interests. Balancing choices within this multi-objective decision framework is further complicated by the presence of uncertainty, because there are many questions about how both ecological and social systems will respond to management actions. The framework also needs to be sufficiently flexible that it can aid both short- and long-term decisions in light of what is learned through monitoring or explicit management actions over time.

The methodological roots of the decision framework are derived from decision analysis and its application to environmental problems through structured decision making (SDM). SDM is an organized process for engaging multiple parties in a decision-focused dialogue that considers both facts (technical analysis) and values (issues, preferences, ethics). It relies on the principles and tools of decision analysis, which in turn is based on multi-attribute utility theory and behavioural decision research. Core elements of SDM include defining objectives and measures of performance, identifying and evaluating alternatives, and making choices based on a clear understanding of uncertainties and trade-offs. The methods are adapted for use in applied decision making situations and have a strong track record in British Columbia and elsewhere.

A decision framework will not by itself select a preferred option, but it will provide insights about the decision by clarifying the things people care about, identifying creative alternatives, and exploring the trade-offs or choices that need to be made. Both the technical analysis and the value-based choices involved can be difficult; a structured decision-making process provides a mutually agreed framework for working through them directly and constructively. Whereas in individual decisions the context for preferences is personal, public decisions should be guided by a context that reflects societal concerns; considerations such as the distribution of economic returns, long-term environmental effects, social justice, or cultural implications often prove to be critical. Preferences expressed by participants should reflect this larger context.

2.0 Principles

Decisions about natural resources management on the Bridge River will be guided by the long term goal of ensuring sound stewardship of resources over time. To this end, the decision making process is designed to encourage decisions that are based on mutual respect for multiple values and that are informed, collaborative, adaptive, and transparent. The following set of principles more fully articulates these requirements.

Value-Based. The decision making process should begin by developing a clear understanding of what matters to participants in the decision – their values – and by clarifying the process and the criteria that will be used to assess the performance of different management alternatives with respect to these values. As values are used to both identify and evaluate alternatives, it is critical that all values, even those that are hard to quantify, are addressed explicitly as part of the decision making process. It is understood that different parties will attach different importance to different values. Deliberations about difficult choices will be based on seeking an acceptable balance across multiple values.

Informed. All participants should have a full understanding of the issues, the alternatives proposed to address them, and the likely consequences of the alternatives. They should have access to the same information (e.g., data, studies, reports/reviews) and work toward building a common understanding of technical findings. Technical information should be presented in a manner that is accessible to non-technical participants. Information that will be used to aid decision makers, along with its role in the decision making process, need to be clearly understood. It is not necessary that every finding of a report be fully endorsed by every party; only that the report be accepted as being a relevant input to the decision, and that its role be understood. The contribution of both science and local or traditional knowledge should be clarified and respected, with knowledge from both scientific and local or traditional sources incorporated as part of the decision framework and with all sources of knowledge subject to relevant quality checks.

Collaborative. Decisions will respect the different views of participants and will be made on the basis of shared discussions. Although it is recognized that different viewpoints – both technical and value-based – may well exist among participants, a collaborative process requires that these views be clearly expressed and be open to discussion as to their origins, strength, relevance and implications. The process will be solutions-oriented, with the goal of finding alternatives that are mutually acceptable.

Adaptive and Learning Focused. Recognizing that uncertainty will always be present, provision should be made for ongoing review and refinement of the understanding of social/cultural, economic and ecological systems and their response to management actions. The timing of, and participation in, review processes should (so far as possible) be established in advance. Data needs in support of future decisions should be clarified before monitoring is initiated.

Transparent. The decision making process will follow a defined set of steps designed to ensure that participants and observers know what to expect at each stage of the process. The use of clear objectives and evaluation criteria will both improve the quality of the decision making process and help to ensure that the rationale for resulting decisions is clear. Timely communication to the larger community of interested parties, including affected management agencies and communities, will be provided.

3.0 Steps in Decision Making

In support of these principles, participants in the decision making process will work collaboratively through a structured decision making process involving the following steps (Figure 1). Progress through these elements is iterative, in that what is learned at one stage of the decision making process often informs earlier steps and may require the modification of earlier choices.

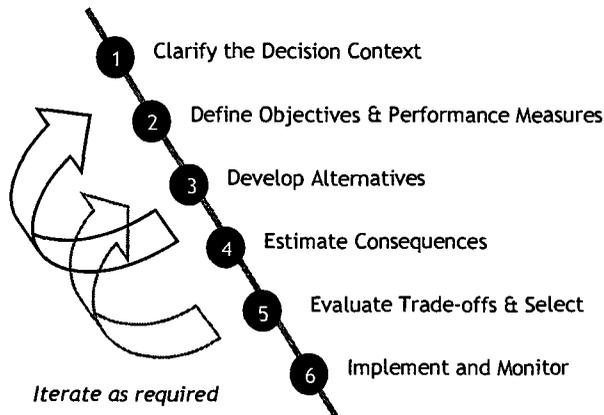
Clarify the **decision context**. This includes the scope of the decision to be made in terms of content, timing and geographic range, as well as any legal or other constraints. It also includes clarifying the steps in the process, and the roles and responsibilities of the affected parties – who will be involved, consulted or informed, and how. At this point, the structure of committee(s) will be determined, including membership, meeting frequency and format. Importantly, the interaction between technical analysis and value-based deliberations will also be defined (e.g., Will there be a separate technical panel or a single committee including technical members? How will technical material be summarized to ensure non-technical participants can participate meaningfully?).

Set **objectives** and **performance measures**. These concisely summarize the things that matter to participants, and they become the evaluation criteria used to identify and compare alternatives. They will include criteria that address key concerns related to ecological, social, cultural, economic, or health and safety considerations, to the extent that these might be affected by the management alternatives under consideration. They will include important but hard-to-quantify values and outcomes as well as those more easily quantifiable.

Identify a range of **alternatives** for addressing the objectives. This means examining, without prior commitment or pre-judging, a full range of creative alternatives that have the potential to address the objectives. This commitment to collaboratively explore creative alternatives is essential to meaningful consultation and to the development of responsive management options.

Estimate the **consequences** of the alternatives. Technical analysis will provide the basis for evaluating alternatives. This task is to be informed by available data, studies, and the judgments of technical specialists and local knowledge holders. Technical findings will be summarized in a consequence table, using the agreed-upon performance measures, to ensure that all participants have a common information base with which to evaluate the alternatives. Where consequences are uncertain, the nature and extent of **uncertainty** will be represented clearly and in a manner that highlights key considerations; this should be done with an emphasis on mutual learning and building a common understanding of the system. Particular emphasis should be placed on building an understanding of uncertainty as it relates to the evaluation of alternatives (are the consequences of some alternatives more uncertain or less well understood than others, and if so how should these differences be addressed?). Potential ways to mitigate the impacts of uncertainty will be explored, including ensuring that management actions are sufficiently flexible to incorporate what is learned over time.

Figure 1 Steps in Structured Decision Making



Evaluate trade-offs when choosing a preferred alternative, based on the goal of achieving a balance among multiple sources of value. This will likely involve both finding win-wins and making difficult choices. Evaluation tools such as consequence tables (along with other supporting technical information) will help to inform choices, but will not make them. Participants in the process will acknowledge and openly discuss difficult tradeoffs and review options for achieving an acceptable balance across all objectives. They are encouraged to consult with their communities to ensure that choices made at the table reflect an understanding of broader community or institutional values. Where consensus on a preferred alternative is not reached, areas of agreement and disagreement and the associated reasons will be documented.

Develop and **implement a monitoring and learning** program to reduce uncertainty, build management capacity over time, and ultimately enhance long term stewardship. The learning program should target improvements in both scientific understanding and traditional knowledge. It also should improve both information quality and management capacity. Decisions about the design and choice of monitoring actions and protocols should be made collaboratively, with agreement about the proposed review period and a process for revisiting decisions.

4.0 Application of the Principles and Steps

This decision making framework can be applied to a **range of collaborative decision making processes**. Although at the Bridge River it has been used in support of the sound stewardship of natural resources within a context that recognizes multiple objectives, it could be applied to other multi-objective problems as well, such as economic development plans or heritage management plans.

The framework is intended to be **flexible**. What exactly is done at each step, to what level of rigour and complexity, will depend on the nature of the decision, the stakes and the resources and time available. In some situations, or for some performance measures, it is helpful to emphasize the development of quantitative estimates; in other

situations or for other performance measures, qualitative or semi-quantitative results are more useful. The goal is to enhance the ability of affected parties and decision makers to think critically and collaboratively about each step, and to provide them with important insights about the choices at hand.

The framework is generally designed to guide a medium to long-term decision process. However, it can also be used to guide the resolution of simpler or more routine issues that emerge during the conduct of this larger decision process or as part of monitoring activities. For example, if the parties in a decision making process disagree about an issue that arises in the conduct of their deliberations, it may be helpful to convene a subgroup to clarify objectives specific to this sub-problem, to identify alternatives and estimate consequences, and then to present trade-offs for discussion by the larger group.

The decision making framework is **not a formula**. It prescribes a flexible yet rigorous process that can effectively guide the deliberations of the parties involved and identify information needed to make defensible and robust decisions. It structures and focuses technical analyses to encourage informed dialogue, transparent results, and equal access among all parties to findings. It structures and focuses deliberations to address the values of participants and to encourage the creative and collaborative exploration of alternatives, trade-offs and uncertainties. The framework is designed to support participants in reaching an informed consensus, but does not guarantee it. Where disagreements remain, the areas of agreement and disagreement will be documented, along with the reasons why. This information can then be presented to those designated as final decision makers.

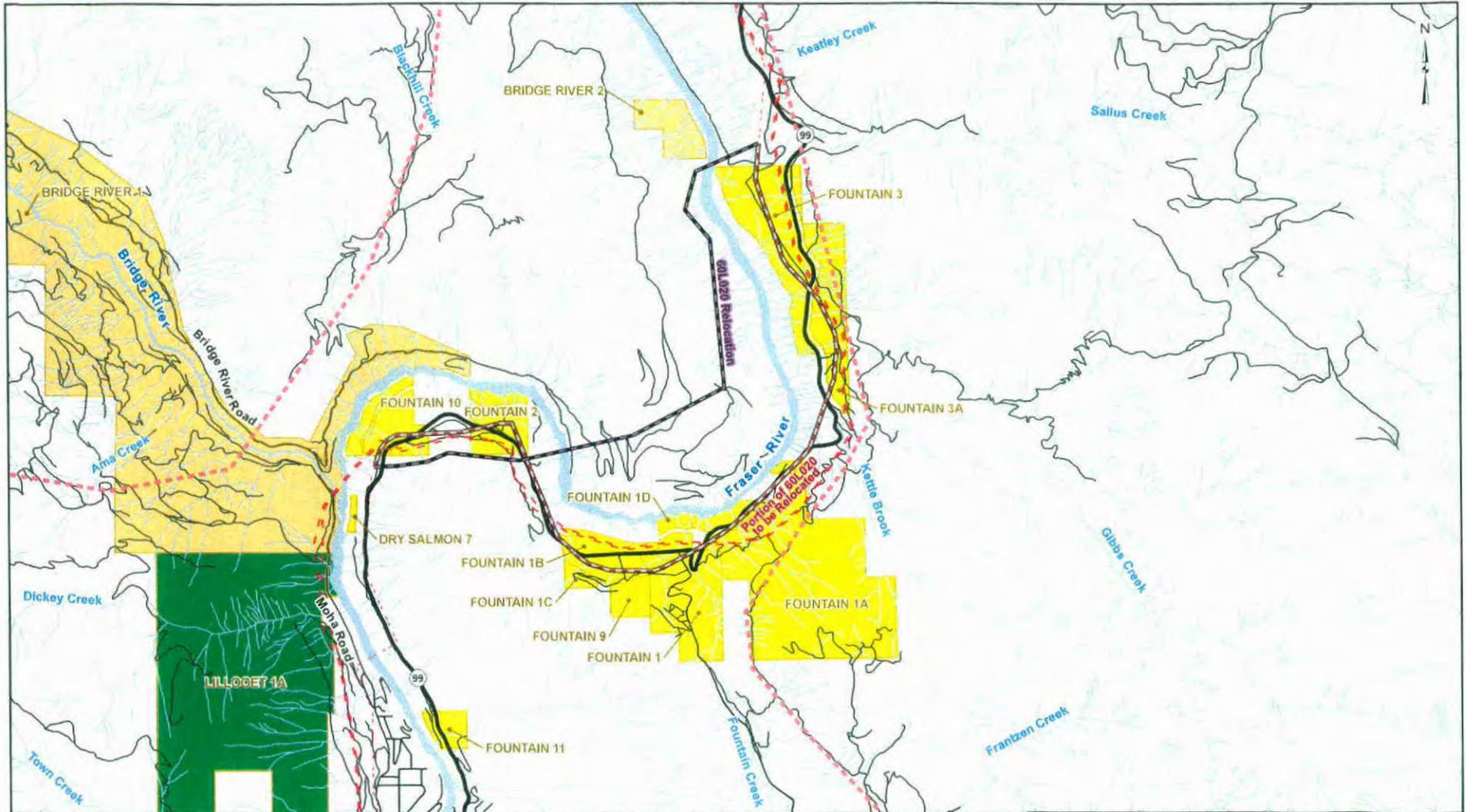
The framework supports but does not require the **weighting** of objectives and performance measures. When used in support of complex, high-stakes, one-time decisions that require a high level of support across different interests (e.g., selecting a flow regime for a regulated river, developing a species recovery plan, etc.), weighting may have limited utility relative to structured dialogue and the insights that come from relating alternatives to a range of clearly defined, value-based objectives. For repeated low-stakes decisions (e.g., ranking of projects, selection of contractors, etc), the assignment of weights to performance measures may be efficient and useful so long as the output of the decision making framework is not cast as making the decision but rather as an aid to improved and more transparent decision making.

The process should be guided by an **independent** facilitator/analyst(s), familiar with collaborative decision making as well as the principles and application of decision analysis in a context characterized by multiple interests and diverse issues and perspectives. This is particularly true in light of the need to be iterative and flexible when implementing the framework: knowing when to probe values more deeply, how to make use of a variety of analytical tools so as to inform estimates of consequences, or when to combine portions of alternatives so as to achieve broader agreement among participants are all subtle but critical elements that often play an important role in achieving a successful and collaborative decision making process,

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SCHEDULE 7
RELOCATION OF 60L020

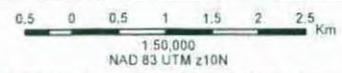
See attached.



- Transmission Lines**
- - 69 Kv
 - . - . 138 - 161 Kv
 - . / . 230 - 287 Kv
 - 60L020 Relocation
 - Portion of 60L020 to be Relocated

- Roads**
- Highway
 - Main Road
 - Secondary Road

- St'at'imc Reserves**
- T'ilq'et (Lillooet) and Xwisten (Bridge River) shared reserve
 - Xax'lip (Fountain)
 - Xwisten (Bridge River)



TRANSPORTATION was acquired from the Ministry of Sustainable Resource Management, Base Mapping & Geomatics Branch TRIM Dataset. RESERVES: Canada Centre for Cadastral Management, Geomatics Canada, Natural Resources Canada 2009-02-02. BCH FACILITIES: PowerGrid Export 12-29-08

DSGN	AB / CA
CHKD	
DFTG	BNL
DYK	
CRKD	
INSPC	
REV	
DATE	NOV 30 2010

BChydro
PHOTOGRAMMETRY SERVICES

SCHEDULE 7
Relocation of 60L020

DATE	NOV 30 2010	REV	1	DESCRIPTION	CHG	BY	NO	G-107-00001	Sheet 4 of 4	R	C
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