

## CERTAINTY PROVISIONS AGREEMENT

### BACKGROUND

A. Tsay Keh Dene, together with certain other parties, have commenced an action in the Supreme Court of British Columbia under No. 04279, Prince George Registry, on behalf of Tsay Keh Dene and all of its Members against BC Hydro, the Province and Canada in relation to the planning, development, construction and operation of the W.A.C. Bennett Dam and the Williston Reservoir seeking, among other things, an accounting of profits, equitable and common law damages or compensation, exemplary, punitive and aggravated damages, special damages, declaratory relief, special costs and interest;

B. As of the Effective Date, the Plaintiffs have not yet reached any settlement with Canada in respect of the Action;

C. The Plaintiffs, BC Hydro and the Province have reached a settlement of all issues between them in the Action on the terms and conditions set out herein; and

D. Tsay Keh Dene, the Province and BC Hydro wish to settle certain other matters relating to the Facilities on the terms and conditions set out herein.

### AGREEMENTS

For good and valuable consideration, the receipt and sufficiency of which each Party acknowledges, the Parties agree as follows:

#### ARTICLE 1 INTERPRETATION

**1.1 Defined Terms.** In this Agreement, unless there is something in the subject matter or context inconsistent therewith or unless otherwise specially provided, the following words, phrases and expressions shall have the following meanings:

- (a) "**Access Agreement**" means the Access Agreement among Tsay Keh Dene, the Province and BC Hydro, dated August 31, 2009.
- (b) "**Action**" means Supreme Court of British Columbia Action No. 04279, Prince George Registry;
- (c) "**Agreement**" means this Certainty Provisions Agreement;
- (d) "**Approved WUP**" means the Peace Order (*Water Act*, Section 88, File No. 76975-35/Peace) issued by the Comptroller of Water Rights on August 9, 2007, and any amendments to this Peace Order;

- (e) "Authorizations" means all tenures, approvals, permits, licences, and other authorizations held by BC Hydro for the Facilities as of the Effective Date, or in the future, together with any amendments or changes made after the Effective Date to the Authorizations as of the Effective Date and including, without limitation, any pest or vegetation management plans held by the British Columbia Transmission Corporation for the management of the Facilities;
- (f) "Band Member" means an individual who is presently, has been or will be a "member of a band as defined in section 2(1) of the Indian Act in respect of the Tsay Keh Dene Band List and includes the heirs, legal representatives or successors of each individual and "Band Members" mean any collective of two or more Band Members;
- (g) "BC Hydro" means British Columbia Hydro and Power Authority, a corporation continued under the Hydro and Power Authority Act, R.S.B.C. 1996, c. 212, its subsidiaries, predecessors, successors, assigns, servants, contractors, subcontractors, legal representatives and shareholders and includes its directors, officers, employees and agents, except in Article 7, where "BC Hydro" has the meaning defined in the Final Agreement;
- (h) "Canada" means Her Majesty the Queen in Right of Canada, and includes her ministers, officials, servants, agents, legal representatives and assigns;
- (i) "Committee Report" means the report of the Peace Water Use Plan Committee dated December 2003;
- (j) "Defined Operation" means the operation of the Reservoir at a Reservoir Elevation that is, within a quality-controlled margin of measurement error of  $\pm 0.1$  meters,
  - (i) above 2205 feet (672.08 meters); or
  - (ii) below the lower of 2147 feet (654.41 meters), or such other level or levels as may be established by the Water Comptroller in a future water use planning process and agreed to by Tsay Keh Dene;
- (k) "Dispute Resolution Process" means the dispute resolution process set out in Article 12 of the Final Agreement;
- (l) "EAO" means the British Columbia Environmental Assessment Office;
- (m) "Effective Date" means the date upon which the last of the Parties has executed and delivered this Agreement;
- (n) "Facilities" means:

- (i) the W.A.C. Bennett Dam, the Peace Canyon Dam, the Reservoir and any other existing works, including transmission and distribution facilities, substations, generating stations, reservoirs, and related works owned or operated by BC Hydro in the geographic area outlined in the map attached as Schedule 1 as of April 1, 2006, which are used or operated in connection with the W.A.C. Bennett Dam, the Peace Canyon Dam or the Reservoir; and
- (ii) includes works added at any time after April 1, 2006 as part of routine maintenance or repairs, and the installation or replacement of Operating Components of the Facilities at any time after April 1, 2006 whether or not the installation of such Operating Components results in an increase in the generating capacity or efficiency of the Facilities;
- (o) **"Final Agreement"** means the final agreement among Tsay Keh Dene, BC Hydro and the Province dated as of August 31, 2009, and a reference to the Final Agreement includes the provisions of this Agreement;
- (p) **"Finlay River Site"** means the Finlay River Site as defined in the Settlement Agreement as amended by the Implementation and Amending Agreement;
- (q) **"GMS Upgrades Proposal"** means the current proposal to replace or upgrade selected equipment for generating units 6, 7 and 8 at BC Hydro's G.M. Shrum Generating Station and includes the development, construction, and operation of the resulting Facilities;
- (r) **"Health Impact"** means a chemical, biological, or physical impact resulting in physical illness to a Member caused by the Facilities or their construction, repair, maintenance, or operation as a result of dust, mercury, or another mechanism that is unknown or unforeseeable as of the Effective Date and not capable of discernment with due diligence, excluding any personal injury sustained by, or wrongful death of, a Member caused by or attributable to drownings, boating accidents, and other similar causes;
- (s) **"Health Impact Claims Process"** means the process under Article 14 and Schedule 14 of the Final Agreement for resolving claims by Band Members for compensation from BC Hydro for alleged Health Impacts;
- (t) **"Implementation and Amending Agreement"** means the Implementation and Amending Agreement dated August 31, 2009 among Tsay Keh Dene, the Province, BC Hydro and Her Majesty the Queen in Right of Canada;
- (u) **"Licence Agreement"** means the Licence Agreement among Canada, Tsay Key Dene, and BC Hydro dated August 31, 2009;
- (v) **"Licensed Use"** means:

- (i) uses of the Facilities, and uses of waters for the Facilities, authorized under the Authorizations listed in Schedule 2 as of the Effective Date; or
- (ii) the sale or export of power generated through the Licensed Use of the Facilities;

and, for greater certainty, the scope of the "**Licensed Use**" within the meaning of this Agreement is not expanded, diminished, or otherwise modified by any amendments to or changes in the Authorizations made or obtained after the Effective Date;

(w) "**Member**" means:

- (i) all individuals who are presently, have been or will be a "member of a band" as defined in Section 2(1) of the Indian *Act* in respect of the Tsay Keh Dene Band List; or
- (ii) any individual who is, has been or will be a People of the Tsay Keh Dene;

and includes the heirs, legal representatives or successors of each individual included in Sections 1.1(w)(i) and (ii) and "**Members**" means any collective of two or more Members;

(x) "**New Project**" means any new power-related project proposed or constructed after April 1, 2006 by, with the approval of, or under or subject to the control of the Province, BC Hydro, or another corporation owned or controlled, directly or indirectly, by the Province or BC Hydro, and, for greater certainty, excludes any and all works added to the Facilities at any time after April 1, 2006 as part of routine maintenance, and the installation and replacement of Operating Components;

(y) "**Non-Licensed Use**" means any use, operation, repair or maintenance, or proposed use, operation, repair or maintenance of the Facilities that is determined under the Dispute Resolution Process to fall outside the scope of the Licensed Use, or that is deemed to fall outside the scope of the Licensed Use under Section 7.3(a)(ii);

(z) "**Operating Components**" means generation, transmission, and distribution equipment, machinery, and other works, including ancillary structures, that form part of the Facilities from time to time;

(aa) "**Other Action**" has the meaning defined in Section 4.2(b) of this Agreement;

(bb) "**Parties**" means any two or more of Tsay Keh Dene, BC Hydro, and the Province, as the context may require and "**Party**" means any one of them;

- (cc) **"People of the Tsay Keh Dene"** means all those aboriginal persons who are eligible to practice aboriginal rights, including title, pursuant to Sections 35(1) and (2) of the *Constitution Act*, 1982, R.S.C. 1985 within Area A of the Information Sharing Area and excludes:
- (i) any 'member of a band' as defined in Section 2(1) of the *Indian Act* in respect of the band list for Takla Lake First Nation, McLeod Lake Indian Band and Kwadacha Nation; and
  - (ii) all those persons, if any, who are eligible to practice aboriginal rights, including aboriginal title, as people of Takla Lake First Nation, McLeod Lake Indian Band and Kwadacha Nation;
- (dd) **"Plaintiffs"** means the plaintiffs in the Action, on their own behalf as well as on behalf of the Members;
- (ee) **"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, relating directly or indirectly to the planning, development, construction or operation of the Facilities;
  - (ii) any administrative or consultation process relating to the operation of the Facilities that is open to members of the public or stakeholders, including any water use planning process relating to the Facilities; or
  - (iii) a public relations campaign, or direct lobbying of municipal, provincial, or federal government officials;
- but, for greater certainty, excludes land claims negotiations or any other negotiations the outcome of which is dependent on the agreement or approval of either or both of BC Hydro and the Province;
- (ff) **"Province"** means Her Majesty the Queen in Right of British Columbia and includes her ministers, officials, servants, agents, legal representatives, assigns, employees, contractors and subcontractors;
- (gg) **"Ratification Agreement"** means the ratification agreement dated March 30, 2009 as amended by an Amendment Agreement dated as of June 9, 2009 among Tsay Keh Dene, BC Hydro and the Province;
- (hh) **"Reservoir"** means the Williston Reservoir;

- (ii) **"Reservoir Elevation"** means the elevation of the Reservoir above sea level:
  - (i) as recorded at the Water Survey of Canada Lost Cabin Gauge (07EF002) located on the north arm of the Peace reach of the Reservoir near the junction with the Finlay and Parsnip reaches; or
  - (ii) as recorded or measured by any replacement gauge or any successor method for recording or measuring the elevation of the Reservoir above sea level;
- (jj) **"Settlement Agreement"** means the "Settlement Agreement" as defined in the Implementation and Amending Agreement; and
- (kk) **"Tsay Keh Dene"** means Tsay Keh Dene First Nation , a "band" under Section 2(1) of the Indian *Act* R.S.C. c. I-6, s. 1, representing all Members and acting through the Band Council.

**1.2 Definitions in Final Agreement.** Terms used in this Agreement, which are defined in the Final Agreement but not otherwise defined in this Agreement, shall have the meanings ascribed to them in the Final Agreement.

**1.3 Schedules.** The following attached schedules form part of this Agreement:

- (a) **Schedule 1** Facilities Map;
- (b) **Schedule 2** Authorizations as of the Effective Date.

**1.4 Interpretation.** For greater certainty, the provisions of Section 1.4 of the Final Agreement apply to this Agreement.

## **ARTICLE 2 SATISFACTION AND COVENANT NOT TO SUE**

**2.1 Satisfaction of Portion of Claim.** The Plaintiffs acknowledge full and complete satisfaction of that portion of their total claims in the Action which may have been caused by or is attributable to the negligence, nuisance, breach of duty, or any other act, omission, or default of BC Hydro or the Province, if any, as may be determined in the trial or other disposition of the Action.

**2.2 Covenant Not to Sue.** Except as otherwise provided in this Agreement, the Plaintiffs covenant not to, at any time hereafter, commence, advance, prosecute or continue against BC Hydro or the Province, any claim or other remedy with respect to any manner of action, cause of action, suit, debt, sum of money, expense, general or special damages, trust, accounting, costs, interest or expenses of any nature or kind whatsoever, whether arising from the Action or any other proceeding, and whether known or unknown, suspected or unsuspected, and arising at law or in equity or under statute which the Plaintiffs can, will, or may have for, by reason of, or arising from the planning, development, construction, repair, maintenance or

operation of the Facilities, and, in particular, without restricting the generality of the foregoing, for and by reason of any law for:

- (a) injuries or damages, including costs and expenses, arising directly or indirectly from the planning, development, construction, repair, maintenance or operation of the Facilities; and
- (b) past, present and future infringement of any and all claimed, existing or future, aboriginal rights or title or treaty rights arising directly or indirectly from the planning, development, construction, repair, maintenance or operation of the Facilities.

**2.3 Exceptions.** Section 2.2 does not apply to or affect:

- (a) the ability of Tsay Keh Dene to initiate a claim against BC Hydro for damages in respect of a Defined Operation in Article 13 of the Final Agreement and to pursue that claim under the Dispute Resolution Process;
- (b) claims by Tsay Keh Dene against the Province for damages in respect of a Defined Operation;
- (c) claims by Tsay Key Dene against BC Hydro for
  - (i) erosion of the Finlay River Site to the extent permitted by section 6.1 of the Settlement Agreement as amended by the Implementation and Amending Agreement; and
  - (ii) the payment of costs of re-interment pursuant to section 3.1.6 of the Settlement Agreement as amended by the Implementation and Amending Agreement;
- (d) claims for Health Impacts, where the Band Member in question has not elected, in writing, to resolve such claim under the Health Impact Claims Process as provided in Article 14 and Schedule 14 of the Final Agreement;
- (e) the ability of a Band Member to pursue a claim against BC Hydro in respect of a Health Impact against BC Hydro under the Health Impact Claims Process, where the Band Member in question has elected, in writing, to resolve such claim under the Health Impact Claims Process, as provided in Article 14 and Schedule 14 of the Final Agreement;
- (f) claims for past, present or future infringement of claimed, existing or future, aboriginal rights or title or treaty rights, to the extent that the breach alleged is not the result of, or would have existed in any event of, the planning, development, construction, repair, maintenance or operation of the Facilities;

- (g) claims by any Member for personal injury or wrongful death that do not constitute claims in respect of a Health Impact;
- (h) claims by any Member employed or engaged as a contractor by the Province, BC Hydro, or their agents or contractors, in respect of the Member's employment engagement, or the termination thereof;
- (i) an appeal to a Court of any decision, order, or award made under the Dispute Resolution Process or the Health Impact Claims Process or an application to the Court to set aside such a decision, order, or award, or for judicial review of such a decision, order, or award, or for interim relief to preserve any Party's interests pending the making of such a decision, order, or award;
- (j) a claim against any Party for breach of this Agreement, the Final Agreement, or a decision, order, or agreed resolution under the Dispute Resolution Process or the Health Impact Claims Process or any other agreement entered into between Tsay Keh Dene or any Member and either or both of BC Hydro and the Province, including any proceeding in respect of such a claim; and
- (k) any other proceeding to enforce the rights of any Party or Member under this Agreement, the Final Agreement, the Settlement Agreement, the Implementation and Amending Agreement, the Access Agreement or the Licence Agreement or a decision, order, award, or agreed resolution under the Dispute Resolution Process or the Health Impact Claims Process, or any other agreement entered into between Tsay Keh Dene or any Member, and either or both of BC Hydro and the Province.

**2.4 Satisfaction of Duty to Consult and Accommodate.** The Plaintiffs acknowledge and agree that any and all obligations of BC Hydro and the Province, or either of them, to consult with them in respect of their existing or asserted aboriginal rights or title or any treaty rights that may be agreed to, or to accommodate those existing or asserted rights or title or treaty rights, arising from the planning, development, construction, repair, maintenance, and operation within Licensed Use of the Facilities, are satisfied by this Agreement and the Final Agreement and by the performance by BC Hydro and the Province of their obligations under this Agreement and the Final Agreement.

**2.5 Exceptions.** Section 2.4 does not apply to claims for any alleged failure by the Province, BC Hydro, or another corporation owned or controlled, directly or indirectly, by the Province or BC Hydro, to consult with the Plaintiffs in respect of their existing or asserted aboriginal rights or title or treaty rights, or to accommodate those existing or asserted aboriginal rights or title or treaty rights, in relation to:

- (a) any New Project;

- (b) a change in the Authorizations, including the amendment of an Authorization or the acquisition of a new Authorization for the Facilities, authorizing a use of the Facilities or a use of waters for the Facilities that is not a Licensed Use; or
- (c) a change in the use of the Facilities from the generation, transmission, or distribution of electricity to another use.

This Section 2.5 does not impose, create, or extend any legal obligation to the Plaintiffs that BC Hydro or the Province would not have in the absence of this Agreement. Section 2.5(b) does not include a change in the Authorizations, other than a water licence (or, if the water licensing scheme established by the Province under the *Water Act* is replaced by another regulatory scheme, an Authorization equivalent to a water licence under that new regulatory scheme), that is required for the installation or operation of an Operating Component.

### **ARTICLE 3 DISCONTINUANCE OF ACTION AGAINST BC HYDRO AND THE PROVINCE**

**3.1 Notice of Discontinuance.** The Plaintiffs will, within 30 days of the Effective Date, discontinue the Action as against BC Hydro and the Province, on a without costs basis, at which time BC Hydro and the Province both agree to waive any claim for costs therein.

**3.2 Amendment of Pleadings.** The Plaintiffs will, within 30 days of the Effective Date, amend their pleadings in the Action to do the following:

- (a) remove BC Hydro and the Province as defendants to the Action;
- (b) delete any claims as against BC Hydro or the Province; and
- (c) expressly waive the Plaintiffs' right to recover against Canada or any other party any fraction, portion or percentage of any losses, damages, or other amounts claimed in the Action that is attributable to the negligence, nuisance, breach of duty, or other act or default of BC Hydro or the Province, for which the Court, or any other Court or tribunal in another proceeding, may find that Canada or such other party is or would be entitled to claim contribution or indemnity, under any statute, agreement or otherwise, from BC Hydro or the Province.

**3.3 Continuation of Action against Canada.** The Plaintiffs may only continue to pursue the Action as against Canada in accordance with the provisions of Article 4 hereof.

**3.4 Full Defence.** The Parties agree that:

- (a) if any of the Plaintiffs continue to pursue the Action against BC Hydro or the Province, or otherwise commence, advance, prosecute, or continue any claim against BC Hydro or the Province contrary to the intent of this Agreement, this Agreement may be pleaded by BC Hydro or the Province as full estoppel and

defence to any such claim by any of the Plaintiffs so that the full force and effect of this Agreement is maintained according to its terms without variation; and

- (b) this Agreement may also be raised by the Province or BC Hydro in any land claims negotiations or other negotiations (excluding settlement negotiations for the purpose of settling claims referred to in Section 2.3(b)) as a full answer to any assertions or claims made by or on behalf of any of the Plaintiffs for further compensation relating to the planning, development, construction, maintenance or operation of the Facilities.

#### **ARTICLE 4 RESERVATION OF RIGHTS AGAINST CANADA**

**4.1 Reservation of Rights Against Canada.** Subject to the terms of Section 4.2, the Plaintiffs hereby except and reserve, and this Agreement is not intended to discharge or in any way affect, any action, cause of action, claim, right or demand that the Plaintiffs may now or in the future have against Canada or any other person, other than BC Hydro or the Province, except as set out in this Agreement, and, for greater certainty:

- (a) the Plaintiffs shall be at liberty to settle, pursue or relinquish their claims against Canada, or, at the Plaintiffs' sole discretion, another person or persons other than BC Hydro or the Province; and
- (b) any recovery of funds made by the Plaintiffs against Canada or such other person or persons shall be solely to the credit of the Plaintiffs, as appropriate, except to the extent that indemnity may be required from Tsay Keh Dene under Section 4.2(f).

**4.2 Obligations of Plaintiffs.** If the Plaintiffs:

- (a) continue to pursue their claims in the Action as against Canada, or as against any other person other than BC Hydro or the Province that the Plaintiffs may add as a defendant in the Action; or
- (b) commence, advance, prosecute or continue any other action, cause of action, claim, right or demand against Canada or any other person other than BC Hydro or the Province, relating to the planning, development, construction, repair, maintenance or operation of the Facilities, for which Canada or such other person might reasonably be entitled to claim contribution or indemnity under any statute, agreement or otherwise from BC Hydro or the Province (other than a claim referred to in Section 2.3) (the "**Other Action**");

the Plaintiffs agree that:

- (c) the Plaintiffs will inform the Court or tribunal, and Canada or such other person, that they have entered into an agreement with BC Hydro and the

Province in settlement of the Plaintiffs' claims as against BC Hydro and the Province in relation to the planning, development, construction, repair, maintenance and operation of the Facilities;

- (d) the Plaintiffs will not to seek to recover against Canada or any other person, and will advise the Court at the first reasonable opportunity that they expressly waive any right to recover from Canada or any other person, that fraction, portion or percentage of the Plaintiffs' total causes of action and claims for damages respecting the planning, development, construction, repair, maintenance or operation of the Facilities that is attributable to the negligence, nuisance, breach of duty, or other act or default of BC Hydro or the Province, for which the Court or tribunal, or any other Court or tribunal in another proceeding, may find that Canada or such other party is or would be entitled to claim contribution or indemnity, under any statute, agreement, or otherwise, from BC Hydro or the Province (other than a claim referred to in Section 2.3);
- (e) if the Court or tribunal, after the trial of the Action or the Other Action, grants judgment to the Plaintiffs or any of them against Canada or any other person in an amount exceeding that fraction, portion or percentage of the Plaintiffs' total causes of action and claims for damages respecting the planning, development, construction, repair, maintenance or operation of the Facilities that is attributable to Canada or such other person, based upon the fraction, portion or percentage of fault or liability of Canada or such other person as found by the Court or tribunal, the Plaintiffs will not seek to recover, directly or indirectly, from Canada or such other person any amount for which Canada or such other person is or would be entitled to claim contribution or indemnity, under any statute, agreement, or otherwise, from BC Hydro or the Province (other than a claim referred to in Section 2.3); and
- (f) if BC Hydro or the Province, through any judgment or order of any Court or tribunal, is found liable to Canada or any other person for contribution or indemnity for any fraction, portion or percentage of any amount paid by Canada or such other person to Tsay Keh Dene in respect of the Plaintiffs' claims in the Action or the Other Action, Tsay Keh Dene will indemnify BC Hydro or the Province, as the case may be, for any such fraction, portion or percentage which BC Hydro or the Province is required to pay to Canada or such other person under that judgment or order (other than in respect of a claim referred to in Section 2.3), but Tsay Keh Dene will not be liable for any costs incurred by BC Hydro or the Province to defend any such claim by Canada or any other person for contribution and indemnity.

**4.3 Consideration.** The Plaintiffs expressly acknowledge the receipt of adequate consideration in respect of the obligations agreed to under Section 4.2, notwithstanding that such consideration has not been provided by Canada or any other person other than BC Hydro or the Province.

**4.4 Rights of BC Hydro and the Province.** Nothing in this Agreement shall in any way or manner restrict BC Hydro or the Province from resisting any application by Canada or any other person to keep BC Hydro or the Province in the Action as a defendant or nominal defendant.

**4.5 Bar Order.** BC Hydro or the Province may, at their option, request a bar order from the Court to bar:

- (a) all claims by all non-settling defendants for contribution, indemnity or other claims as against BC Hydro or the Province in respect of the Action; and
- (b) discovery by all non-settling defendants against BC Hydro or the Province except where the Court deems it appropriate by court order.

## **ARTICLE 5 FUTURE RELATIONSHIP**

**5.1 Tsay Keh Dene Participation in Proceedings.** Subject to the provisions of Articles 2 through 4, this Agreement does not restrict Tsay Keh Dene's right to participate fully in any Proceeding, provided that Tsay Keh Dene does not breach Section 5.2. For greater clarity, notwithstanding the provisions of Article 2, this Agreement does not restrict Tsay Keh Dene's right to take any position in any Proceeding with respect to:

- (a) any Non-Licensed Use of the Facilities, provided that Tsay Keh Dene shall not make any claim against BC Hydro or the Province for damages with respect to a Non-Licensed Use, other than as may be permitted by Section 13 of the Final Agreement for a Defined Operation; or
- (b) any New Project.

Tsay Keh Dene will, in the exercise of its rights under Section 5.1(a), make a good faith effort to resolve the issue with BC Hydro prior to seeking relief from a regulatory body or bodies having jurisdiction over the matter and may pursue other remedies available to it once its remedies from the regulatory authority or authorities have been exhausted.

**5.2 Tsay Keh Dene Covenants Not to Interfere.** Tsay Keh Dene covenants and agrees not to encourage, commence, join, prosecute, assert, intervene in, or support any Proceeding on its own behalf or on behalf of or in cooperation with any other Member, person, group or entity, in which Tsay Keh Dene or such other Member, person, group or entity:

- (a) takes the position that:

- (i) any Authorization required for the Licensed Use of the Facilities is legally invalid;
  - (ii) the Licensed Use of the Facilities was not or is not within the scope of the Authorizations;
  - (iii) BC Hydro does not, for any reason, have the legal right to continue its Licensed Use of the Facilities; or
  - (iv) BC Hydro requires any further tenure, approval, permit, licence, or other authorization to allow the Licensed Use of the Facilities;
- (b) without the express consent of BC Hydro, attempts to restrict the Licensed Use of the Facilities, other than to:
- (i) participate in any proceeding in the water use planning process for the approval and implementation of the Approved WUP, to support the implementation of recommendations which are consistent with the Committee Report and to advocate for the implementation of those recommendations with respect to dust, debris, and heritage, but not erosion mitigation measures, including implementation of plans with respect to dust, debris, and heritage, but not erosion mitigation measures through amended water licence conditions and other orders under the Water Act RSBC 1996, c. 483;
  - (ii) participate in the 5 year and 10 year reviews of the Approved WUP, and in future public multi-stakeholder planning processes for water use plans that include all or a portion of the geographic area outlined in the map attached as Schedule 1:
    - (A) to make and support recommendations with respect to dust, debris, and heritage, but not erosion mitigation measures, that are consistent with the Committee Report; and
    - (B) to advocate for and recommend new plans that Tsay Keh Dene may consider to be necessary with respect to dust, debris, and heritage, but not erosion mitigation, including implementation of such plans through amended water licence conditions and other orders under the Water Act, provided that such plans and recommendations do not include any restrictions on reservoir elevations or otherwise restrict BC Hydro's operation of the Reservoir;

provided that with respect to any water use planning process, Tsay Keh Dene will not encourage, commence, join, prosecute, assert, intervene in, or support any Proceeding to review or appeal the decision of the statutory decision maker with respect to the acceptance, rejection, or modification

of any position advocated, or recommendation made by Tsay Keh Dene, 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 Tsay Keh Dene to consult with them in respect of their existing or asserted aboriginal rights or title or treaty rights, or to accommodate those existing or asserted rights or title or treaty rights; and

- (iii) continue to participate in the EAO process with respect to the GMS Upgrades Proposal to learn about the GMS Upgrades Proposal and to identify any physical or environmental interests that Tsay Keh Dene may have related to the incremental impacts of the GMS Upgrades Proposal provided that Tsay Keh Dene will not:
  - (A) oppose the GMS Upgrades Proposal or any Authorizations that are required for or related to the GMS Upgrades Proposal;
  - (B) make any further representations with respect to the impacts of the Facilities in existence at April 1, 2006 in the course of its participation in the EAO process;
  - (C) encourage, commence, join, prosecute, assert, intervene in, or support any Proceeding to review or appeal the decision of the statutory decision maker with respect to the GMS Upgrades Proposal, on any basis or grounds, including the ground that there is a failure to satisfy a legal obligation to Tsay Keh Dene to consult with them in respect of their existing or asserted aboriginal rights or title or treaty rights, or to accommodate those existing or asserted rights or title or treaty rights; and
  - (D) seek any compensation or other accommodation from BC Hydro or the Province with respect to the GMS Upgrades Proposal;
- (c) opposes the issuance, renewal or modification of any Authorization sought by BC Hydro, to the extent such Authorization is required to allow the Licensed Use of the Facilities;
- (d) opposes or seeks to delay or prevent the approval and implementation by the Comptroller of Water Rights of the Committee Report; or
- (e) attempts to seek any compensation from BC Hydro or the Province for damages or impacts arising out of a Defined Operation other than under Article 13 of the Final Agreement and the Dispute Resolution Process, or from the Province as otherwise permitted under Section 2.3.

**5.3 Sanctions for Breach.** For any breach by Tsay Keh Dene of Section 5.2, BC Hydro may pursue any remedy available to it at law or in equity under the Dispute Resolution Process, provided that:

- (a) any damages or other financial sanctions which are imposed against Tsay Keh Dene are reasonable and proportional to the financial harm that is or will be caused to BC Hydro or the Province by the breach, including the reduction, suspension, or termination of the Fixed Payments, Additional Payments or Reservoir Payments; and
- (b) such damages or financial sanctions are not applicable to breaches of Section 2.2 or 2.4, as it is contemplated that BC Hydro and the Province will be able to rely on the provisions of Articles 2 through 4 as a complete defence to any action that is commenced.

**5.4 Binding Effect on the Province.** For greater certainty, notwithstanding the fact that the Province is not a party to the Dispute Resolution Process:

- (a) subject to Articles 2 through 4, the Province will not take the position that Tsay Keh Dene is not entitled under Section 5.1(a) to take any position in any Proceeding with respect to any Non-Licensed Use of the Facilities; and
- (b) the Province will not claim or seek to impose damages or financial sanctions against Tsay Keh Dene in respect of any breach of Section 5.2 other than, in excess of, or in addition to any damages or financial sanctions which may be determined under the Dispute Resolution Process in accordance with Section 5.3(a).

**5.5 Appeals from Dispute Resolution Process or Health Impact Claims Process.** In any appeal to a Court of a decision, order, or award made under the Dispute Resolution Process or the Health Impact Claims Process, Article 2 and this Article 5 do not preclude Tsay Keh Dene or, in the case of the Health Impact Claims Process, a Band Member, from raising or pursuing the subject matter of the appeal.

## **ARTICLE 6 INDEMNITY**

**6.1 Indemnification by Tsay Keh Dene.** Subject to Section 1.1(e), Tsay Keh Dene will indemnify and forever save harmless BC Hydro and the Province from and against any and all obligation, liability, duty, loss, damage, cost or expense resulting, directly or indirectly, from any Proceeding commenced, joined, prosecuted, asserted, intervened in, or supported by the Plaintiffs or commenced, joined, prosecuted, asserted, or intervened in by Tsay Keh Dene or any Member or collective of Members against BC Hydro or the Province relating directly or indirectly to:

- (a) the planning, development, construction, repair, maintenance, or operation of the Facilities;

- (b) claims which are in respect of procedures resulting in the ratification, execution and delivery of this Agreement, the Final Agreement, and the Implementation and Amending Agreement;
- (c) claims arising from the selection, appointment, or actions of the Payment Trustees, the Capitalization Fund Trustees or the Endowment Fund Trustees;
- (d) any errors or omissions in respect of the ratification of this Agreement, the Final Agreement or the Implementation and Amending Agreement; or
- (e) the deposit, withdrawal, use, management or any other dealing with respect to funds paid to Tsay Keh Dene or the Payment Trustees, the Capitalization Fund Trustees or the Endowment Fund Trustees under the Final Agreement.

**6.2 Exceptions.** Nothing in this Agreement will require Tsay Keh Dene to indemnify BC Hydro or the Province for a claim described in Section 2.3 or 2.5, including a claim for a Health Impact where the Band Member in question has elected, in writing, to resolve such claim under the Health Impact Claims Process.

**6.3 Notice.** BC Hydro and the Province will provide Tsay Keh Dene with notice of any Proceeding which may reasonably give rise to indemnification under Section 6.1. Such notice must be sufficient to enable Tsay Keh Dene to identify the claims being made in such Proceeding and to protect Tsay Keh Dene's interest in any Proceeding or settlement.

## **ARTICLE 7 REPRESENTATIONS AND WARRANTIES**

**7.1 Representation and Warranty of Tsay Keh Dene.** Tsay Keh Dene represents and warrants to each of the other Parties that it has the authority to act on behalf of the Plaintiffs with respect to the conduct of the Action, and with respect to any obligations assumed under this Agreement pertaining to the conduct of the Action.

**7.2 Representation and Warranty of BC Hydro.** BC Hydro represents and warrants to each of the other Parties, that, to the knowledge of BC Hydro, there is no material Authorization held by BC Hydro for the Facilities as of the Effective Date that has not been specified in Schedule 2, and that has not been fully disclosed to, or made available for inspection by, Tsay Keh Dene.

**7.3 Consequence of Non-Disclosure of Authorization.** If, despite Section 7.2, it is determined under the Dispute Resolution Process that there existed, as of the Effective Date, any Authorization that was not listed in Schedule 2:

- (a) if that Authorization imposed a material restriction, limitation, or condition on the Licensed Use of the Facilities:
  - (i) Tsay Keh Dene will be entitled under the Dispute Resolution Process to initiate and pursue any claim it may have against BC Hydro arising from

any use of the Facilities that is contrary to such restriction, limitation, or condition, in the same manner as if that use were a Defined Operation, in accordance with Section 2.3(a); and

- (ii) for the purposes of Article 5, any use of the Facilities that is contrary to such restriction, limitation, or condition will be deemed to fall outside the scope of the Licensed Use;
- (b) except as provided in Section 7.3(a)(i) and (ii), Tsay Keh Dene will have no other remedy, including termination or rescission of this Agreement or the Final Agreement or the Implementation and Amending Agreement, as a result of BC Hydro's non-disclosure of that Authorization; and
- (c) the Parties' respective rights and obligations under this Agreement and the Final Agreement will not otherwise be affected or modified.

**7.4 Suwival.** 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.

**7.5 Reliance.** Subject to Section 7.3, 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 Parties.

## **ARTICLE 8 GENERAL**

**8.1 Dispute Resolution.** Any dispute, difference or disagreement between Tsay Keh Dene and BC Hydro as to the meaning, application, implementation, or breach of any part of this Agreement, including the quantum of any financial sanction will be resolved in accordance with the Dispute Resolution Process, provided that nothing in this section precludes BC Hydro or Tsay Keh Dene from pleading or otherwise relying on this Agreement in any Proceeding for the purpose of enforcing its terms.

**8.2 Set-Off.** If, under this Agreement, the Final Agreement, the Settlement Agreement, the Access Agreement or the Implementation and Amending Agreement, Tsay Keh Dene or any of the Plaintiffs become obligated to pay any sum of money to either BC Hydro or the Province, then such sum may, at the election of BC Hydro or the Province, as the case may be, and without limiting or waiving any right or remedy for either such Party under this Agreement, the Final Agreement, the Settlement Agreement, the Access Agreement or the Implementation and Amending Agreement, be set off against and will apply to any sum of money owed by either BC Hydro or the Province, as the case may be, whether under this Agreement, the Final Agreement, the Settlement Agreement, the Access Agreement or the Implementation and Amending Agreement, until such amount has been completely set-off.

**8.3 No Admission of Liability.** It is expressly understood and agreed by the Parties that the terms and conditions contained in this Agreement do not constitute an admission of wrongdoing or liability on the part of BC Hydro or the Province and are agreed to by BC Hydro and the Province on a 'without prejudice' basis.

**8.4 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 rights including title or treaty rights.

**8.5 Further Assurances.** The Parties agree to execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary, to give full effect to this Agreement, and to make this Agreement legally effective, binding, and enforceable as among them, and as against third parties.

**8.6 Waiver.** No provision of this Agreement may be waived 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.

**8.7 Time of Essence.** Time is of the essence of this Agreement.

**8.8 Applicable Law.** This Agreement and all related matters will be governed by, and construed in accordance with the federal laws of Canada and the provincial laws of British Columbia applicable therein. The Parties each irrevocably submit and attorn to the original and exclusive jurisdiction of British Columbia.

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

**8.10 Interpretation.** The Parties agree that 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.

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

**IN WITNESS WHEREOF** this Certainty Provisions Agreement has been executed by each of the Parties as of August 31, 2009.

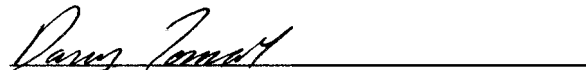
**TSAY KEH DENE FIRST NATION**

By:



Chief Ella Pierre

By:



Councillor

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

By:



Honourable George Abbott,  
Minister Of Aboriginal Relations & Reconciliation

**BRITISH COLUMBIA HYDRO AND  
POWER AUTHORITY**

By:



Bob Elton,  
President and Chief Executive Officer



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

IN WITNESS WHEREOF this ~~Certainty~~ Provisions Agreement has been executed by each of the Parties as of August 31, 2009.

TSAY KEH DENE FIRST NATION  
By:

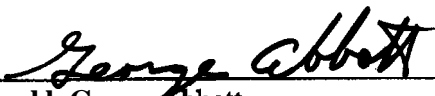
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Chief Ella Pierre  
By:

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Councillor

HER MAJESTY THE QUEEN IN  
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President and Chief Executive Officer



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

IN 'WITNESSWHEREOF' this ~~Certainty Provisions Agreement~~ has been executed by each of the Parties as of August 31,2009.

**TSAY KEH DENE FIRST NATION**

By:

---

Chief Ella Pierre

By:

---

Councillor

**HER MAJESTY THE QUEEN IN  
RIGHT OF THE PROVINCE OF  
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By:

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Honourable George Abbott,  
Minister Of Aboriginal Relations & Reconciliation

**BRITISH COLUMBIA HYDRO AND  
POWER AUTHORITY**

By:

  
\_\_\_\_\_  
Bob Elton,  
President and Chief Executive Officer



# SCHEDULE 1 FACILITIES MAP



BC Hydro's Peace Facilities



Scale = 1:1,000,000

**SCHEDULE 2**  
**AUTHORIZATIONS AS OF THE EFFECTIVE DATE**

**A. Water Licences, Orders, Approvals and Permits**

1. Peace Order (*Water Act*, Section 88, File No. 786975-35/Peace) issued by the Comptroller of Water Rights on August 9, 2007
2. Final Water Licence 123019, issued April 4, 2008 in substitution of Conditional Water Licence 43431  
  
Final Water Licence 123021, issued April 4, 2008 in substitution of Conditional Water Licence 27722
4. Final Water Licence 123020, issued April 4, 2008 in substitution of Conditional Water Licence 49679
5. Final Water Licence 123018, issued April 4, 2008 in substitution of Conditional Water Licence 27721
6. Conditional Water Licence 123025, issued April 4, 2008 in substitution of Conditional Water Licence 42203  
  
Permit No. 26011 Authorizing the Occupation of Crown Land, Section 26, Water Act, issued May 8, 2008 to the Holder of Final Water Licence 123021, in substitution of Permit No. 25875, which Permit was issued in substitution of Permit No. 6781
8. Permit No. 25876 Authorizing the Occupation of Crown Land, Section 26, Water Act, issued April 4, 2008 to the Holder of Final Water Licence 123025, in substitution of Permit No. 18365
9. Conditional Water Licence No. 27722, issued December 21, 1962, substituted by Final Water Licence 123021, issued April 4, 2008
10. Conditional Water Licence No. 27721, issued December 21, 1962, substituted by Final Water Licence 123018, issued April 4, 2008
11. Conditional Water Licence No. 29206, issued September 1, 1964
12. Conditional Water Licence No. 29207, issued September 1, 1964
13. Conditional Water Licence No. 43431, issued November 22, 1974, substituted by Final Water Licence 123019, issued April 4, 2008
14. Conditional Water Licence No. 42203, issued April 26, 1974, substituted by Conditional Water Licence 123025, issued April 4, 2008

15. Conditional Water Licence No. 49679, issued February 10, 1978, substituted by Final Water Licence 123020, issued April 4, 2008
16. Order amending Conditional Water Licence No. 27722, dated March 30, 1972
17. Order under the Water Act amending Conditional Water Licence No. 27722, dated February 27, 1963
18. Permit No. 6781 under the Water Act Authorizing the Occupation of Crown Land, issued June 3, 1968 to the Holder of Conditional Water Licence No. 27722, substituted by Permit No. 25875 issued April 4, 2008, further substituted by Permit No. 26011 issued May 8, 2008
19. Permit No. 18365 under the Water Act Authorizing the Occupation of Crown Land, issued July 19, 1991 to the Holder of Conditional Water Licence No. 42203, substituted by Permit No. 25876 issued April 4, 2008
20. Order pursuant to clause (n) of Conditional Water Licence No. 42203, dated May 8, 1980
21. Order pursuant to clause (o) of Conditional Water Licence No. 42203, dated May 8, 1980

**B. Waste Management Act Permits**

22. Waste Management Act Permit No. PE-07673 issued June 8, 1987, as amended (GMS effluent discharge permit)
23. Waste Management Act Permit No. PE-05240 issued October 18, 1978, as amended (PCN effluent discharge permit)
24. Waste Management Act Permit No. PR-14556 issued March 27, 1997 (GMS landfill refuse Permit)

**C. Navigable Waters Protection Act Approval**

25. Navigable Waters Protection Act Approval, dated March 8, 1974

**D. Pest and Vegetation Management**

26. BC Hydro Pest Management Plan for Management of Vegetation at BC Hydro Facilities, PMP No. 105-0975-07112, first published March 2000; revised and republished August 2006, March 2009, and any confirmations
27. BC Hydro Integrated Vegetation Management Plan for Distribution Line Corridors, PMP-105-ROW-2005, dated September 26, 2005, and any confirmations
28. BC Hydro Pest Management Plan for BC Hydro Wood Structure Maintenance, MLWAP File No. 2-2009-2014, revised April 2009, and any confirmations

29. BCTC Integrated Vegetation Management Plan for Control of Vegetation within Transmission Rights-of-way, No. 797-0004-2005/2010, issued July 2005, revised April 2008, and any confirmations
30. BCTC Pest Management Plan for Wood Structure Maintenance by the British Columbia Transmission Corporation, No. 2-2009-2014, dated March 2009, and any confirmations
31. BCTC Pest Management Plan for Control of Weeds in BCTC Facilities, No. 797-0005-200612011, dated April 25, 2006, and any confirmations

**E. Subsurface Coal, Petroleum and Natural Gas Rights**

32. Registered Charge C2935, undersurface coal, petroleum and natural gas rights over DL 1024, 1025, the S ½ of 1026, 1027, 1028, 1029, 1034, 1035, 1042, 1043, 1047 and 1049 under registered charge C2935

**F. Land/Map Reserves and Flooding Permits**

33. LandIMap Reserve No. 84825 – File: 1006-1201.0(10)
34. LandIMap Reserve No. 84826 – File: 1006-1201.0(10)
35. Land/Map Reserve No. 84827 – File: 1006-1201.0(10)
36. Land/Map Reserve No. 2300162 – File: 1006-1240.0(11)
37. LandIMap Reserve No. 2301162 – File: 1006-1240.0(11)
38. LandIMap Reserve No. 2297162 – File: 1006-1240.0(11)
39. LandIMap Reserve No. 2299162 – File: 1006-1240.0(11)
40. Crown Grant No. 206311091; reservation giving right to flood
41. Crown Grant No. 206411091; reservation giving right to flood
42. Crown Grant No. 206211091; reservation giving right to flood
43. Crown Grant No. 206011091; reservation giving right to flood

**G. Interests in Crown Lands**

**Licenses of Occupation**

44. Licence of Occupation No. 705719 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated June 25, 2007

45. Licence of Occupation No. 814150 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated November 6, 2005
46. Licence of Occupation No. 703781 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated October 18, 1999, as modified by Modification Agreement between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated October 24, 2003
47. Licence of Occupation No. 704161 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated January 29, 2003
48. Licence of Occupation No. 814259 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated March 25, 2002
49. Licence of Occupation No. 814260 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated March 25, 2002
50. Licence of Occupation No. 813436 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated March 18, 2002
51. Licence of Occupation No. 704014 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated February 5, 2002
52. Licence of Occupation (Map) No. 813768 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated January 8, 2001 (subject to regulatory approval)
53. Licence of Occupation No. 813823 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated March 23, 2000
54. Licence of Occupation No. 813883 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated February 21, 2000
55. Licence of Occupation No. 813882 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated February 21, 2000
56. Licence of Occupation No. 703728 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated January 10, 1999
57. Licence of Occupation No. 812194 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated January 10, 1997
58. Licence of Occupation No. 806235 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks dated September 21, 1993
59. Licence of Occupation No. 802804 between Her Majesty the Queen, represented by Minister of Forests and Lands, and BC Hydro dated November 30, 1987

60. Licence of Occupation No. 802093 between Her Majesty the Queen, represented by Minister of Forests and Lands, and BC Hydro dated July 8, 1987
61. Licence of Occupation No. 705884 between Her Majesty the Queen, represented by Minister responsible for the *Land* Act, and BC Hydro dated January 28,2009
62. Licence of Occupation No. 705862 between Her Majesty the Queen, represented by Minister responsible for the *Land* Act, and BC Hydro dated January 10,2009

### **Rights of Way**

63. Flowage Right of Way No. 740794 between Her Majesty the Queen, represented by Minister responsible for the *Land* Act, and BC Hydro dated October 5, 2004
64. Flowage Right of Way No. 740795 between Her Majesty the Queen, represented by Minister responsible for the *Land* Act, and BC Hydro dated October 5,2004
65. Right of Way No. 813947 between Her Majesty the Queen, represented by Minister of Sustainable Resource Management, and BC Hydro dated February 17,2005
66. Right of Way No. 813575 between Her Majesty the Queen, represented by Minister of Sustainable Resource Management, and BC Hydro dated March 30, 1999
67. Right of Way No. 809367 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated September 12, 1996
68. Right of Way No. 804444 between Her Majesty the Queen, represented by Minister of Crown Lands, and BC Hydro dated November 11, 1993
69. Right of Way No. 806395 between Her Majesty the Queen, represented by Minister of Lands and Parks, dated December 6, 1990
70. Right of Way No. 805001 between Her Majesty the Queen, represented by Minister of Lands and Parks, and BC Hydro dated December 6, 1990
71. Right of Way No. 804321 between Her Majesty the Queen, represented by Minister of Crown Lands, and BC Hydro dated May 15, 1990
72. Right of Way No. 804383 between Her Majesty the Queen, represented by Minister of Crown Lands, and BC Hydro dated May 11, 1990
73. Right of Way No. 800348 between Her Majesty the Queen, represented by Minister of Lands, Parks and Housing, and BC Hydro dated December 10, 1981
74. Right of Way (file no. 0327120) between Her Majesty the Queen, represented by Minister of Lands, Parks and Housing, and BC Hydro dated May 22, 1980

75. Right of Way (file no. 0314243) between Her Majesty the Queen, represented by Minister of Environment, and BC Hydro dated November 3, 1977
76. Right of Way (file no. 0319151) between Her Majesty the Queen, represented by Minister of Environment, and BC Hydro dated October 8, 1976
77. Right of Way (file no. 0313318) between Her Majesty the Queen, represented by Minister of Lands, Forests and Water Resources, and BC Hydro dated March 25, 1976
78. Right of Way (file no. 0319236) between Her Majesty the Queen, represented by Minister of Lands, Forests, and Water Resources, and BC Hydro dated March 4, 1975
79. Right of Way (file no. 0297460) between Her Majesty the Queen, represented by Minister of Lands, Forests and Water Resources, and BC Hydro dated April 6, 1972
80. Right of Way (file no. 0254383) between Her Majesty the Queen, represented by Minister responsible for the Land Act, and BC Hydro dated June 24, 1971
81. Right of Way (file no. 0250191) between Her Majesty the Queen, represented by Minister of Lands, Forests and Water Resources, and BC Hydro dated September 8, 1965
82. Right of Way (file no. 0278519) between Her Majesty the Queen, represented by Minister of Lands, Forests and Water Resources, and BC Hydro dated June 25, 1968
83. Right of Way (file no. 7408419) between Her Majesty the Queen, represented by the Minister responsible for the Land Act, and BC Hydro dated January 9, 2006
84. Right of Way (file no. 8005292) between Her Majesty the Queen, represented by the Minister responsible for Environment, Lands and Parks, and BC Hydro dated June 17, 1993
85. Right of Way (file no. 7407937) between Her Majesty the Queen, represented by the Minister responsible for the Land Act, and BC Hydro dated February 7, 2002

#### **Temporary Use Permits**

86. Temporary Use Permit No. 814553 between Her Majesty the Queen, represented by Minister responsible for the Land Act, and BC Hydro dated April 17, 2008
87. Temporary Use Permit No. 814501 between Her Majesty the Queen, represented by Minister responsible for the *Land Act*, and BC Hydro dated January 17, 2008
88. Temporary Use Permit No. 814623 between Her Majesty the Queen, represented by Minister responsible for the Land Act, and BC Hydro dated August 14, 2008

#### **Leases**

89. Lease No. 703141 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated June 25, 1993. as modified by Amendment between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated October 21, 2008
90. Lease No. 700936 between Her Majesty the Queen, represented by Minister of Lands, Parks and Housing, and BC Hydro dated November 30, 1983

#### **Communication Licenses**

91. Communication Site Licence No. 703609 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated September 2, 1998
92. Communication Site Licence No. 811724 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated June 5, 1998
93. Communication Site Licence No. 812069 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated April 25, 1998
94. Communication Site Licence No. 703694 between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated November 15, 1997

#### **Modification Agreements**

95. Modification Agreement (for Licence No. 802529) between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated October 27, 1995
96. Modification Agreement (for Right of Way No. 702543) between Her Majesty the Queen, represented by Minister of Environment, Lands and Parks, and BC Hydro dated October 16, 1998

#### **H. Registered Flowage Easements:**

97. Easement No. A2708 granted by Kariel Adams in favour of British Columbia Hydro and Power Authority in Deed of Trust dated April 1, 1966
98. Easement No. G1488 granted by Vervrine Hazel Stark and Diana Mary Brooks Adams in favour of British Columbia Hydro and Power Authority dated January 14, 1972
99. Easement No. A1878 granted by Kariel Adams in favour of British Columbia Hydro and Power Authority in Deed of Land dated April 1, 1982
100. Easement No. A2709 granted by Kariel Adams in favour of British Columbia Hydro and Power Authority in Deed of Trust dated April 1, 1966
101. Easement No. D7633 granted by Elizabeth Beattie in favour of British Columbia Hydro and Power Authority dated June 9, 1969

102. Easement No. E5261 granted by William Kruger in favour of British Columbia Hydro and Power Authority dated July 3, 1968
103. Easement No. G1491 granted by Vervine Hazel Stark and Clement Charles Brooks Adams in favour of British Columbia Hydro and Power Authority dated January 14, 1972
104. Easement No. E10222 granted by Bradford Angier in favour of British Columbia Hydro and Power Authority dated August 5, 1970
105. Easement No. C7134 granted by Herbert Charles Lindley in favour of British Columbia Hydro and Power Authority dated May 21, 1968
106. Easement No. M37850 granted by Tompkins Ranching Ltd. in favour of British Columbia Hydro and Power Authority dated March 11, 1977
107. Easement No. S7696 granted by Tompkins Ranching Ltd. in favour of British Columbia Hydro and Power Authority dated March 2, 1982
108. Easement No. E714 granted by John Leonard Roche Ardill, Richard William Ardill, Thomas Alfred Ardill and Elizabeth Anne Holoboff in favour of British Columbia Hydro and Power Authority dated January 6, 1970
109. Easement No. A1880 granted by Kariel Adams in favour of British Columbia Hydro and Power Authority in Deed of Land dated April 1, 1966
110. Easement No. D2364 granted by Kariel Adams in favour of British Columbia Hydro and Power Authority dated February 19, 1969
111. Easement No. C11272 granted by Martin Surrey Caine and executors of the last will and testament of Alexander Bohannan Moffat in favour of British Columbia Hydro and Power Authority dated August 14, 1968
112. Easement No. J33108 granted by Olive Powell in favour of British Columbia Hydro and Power Authority dated August 21, 1974

**I. Generating Station and Williston Lake Tenures**

113. Generating Station Titles registered in favour of British Columbia Hydro and Power Authority:

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
PE37685	017-558-204	DI 3937 Peace River District
PE37686	017-558-221	Blk A DL 149 Peace River District

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
PF2594	017-558-239	Blk B DL 149 Peace River District exc. Plan PGP35952
PB43657	012-173-801	Frac. S/E ¼ of the Frac. S/E ¼ DL 149 Peace River District
PB49685	012-565-393	Parcel A (Plan 16838) DL 148 Peace River District
PB45437	012-259-993	Parcel B (Plan 22386) DL 148 Peace River District exc. Plan 33360

114. Williston Lake Titles registered in favour of British Columbia Hydro and Power Authority:

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
E197	010-942-939	DL 4707 Cassiar District
82866M	013-466-941	Blk A DL 3581 Cassiar District
83852M	014-190-303	DL 7458 Cariboo District
72893M	013-426-087	DL 7459 Cariboo District exc. Pcl A. (112727M)
112727M	011-529-989	Pcl A DL 7459 Cariboo District
PB32989	011-742-739	DL 7460 Cariboo District
81790M	014-123-746	DL 7461 Cariboo District
72818M	013-419-773	DL 7462 Cariboo District
C11273	011-357-401	The most southerly 30 chains of DL 7463 Cariboo District exc. Pcl A (52477M)
80140M	013-750-747	Pcl A (52477M) of the most southerly 30 chains of DL 7463 Cariboo District
PB32997	011-742-798	DL 7508 Cariboo District
PB32994	011-742-763	DL 7465 Cariboo District
PB32990	011-742-747	DL 7464 Cariboo District
110891M	011-640-383	DL 7493 Cariboo District
110890M	011-639-229	DL 7494 Cariboo District
PB33053	011-742-909	DL 7495 Cariboo District

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
PB33054	011-742-917	DL 7496 Cariboo District
110885M	011-639-202	DL 7497 Cariboo District
110892M	011-640-545	DL 7498 Cariboo District
88905M	013-534-882	DL 7499 Cariboo District
110893M	011-640-596	DL 7500 Cariboo District
PB33006	011-742-721	DL 3720 Cariboo District
PB33005	011-742-712	DL 3719 Cariboo District
74819M	013-593-803	DL 7489 Cariboo District
90771 M	013-457-624	DL 7486 Cariboo District
82006M	013-768-760	DL 3722 Cariboo District
113601M	011-530-286	DL 9604 Cariboo District
87145M	013-833-545	DL 3721 Cariboo District
84286M	013-842-706	DL 1792 Peace River District
83340M	014-190-168	DL 336 Peace River District
PCI473	012-738-841	DL 1509 Peace River District exc. Plan 2405
86616M	013-988-395	Lot A DL 1509 Peace River District Plan 2405
PC 1472	012-738-824	DL 1488 Peace River District
D1183	011-276-282	DL 2040 Peace River District
PC18709	013-753-932	DL 1517 Peace River District
PB 18708	013-753-916	DL 1516 Peace River District
PC 18707	013-753-878	DL 1515 Peace River District
80138M	013-750-712	DL 1510 Peace River District
PC21452	013-924-991	DL 15 11 Peace River District
PC21453	013-925-041	DL 1512 Peace River District
PCI8705	013-753-771	DL 1513 Peace River District

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
PC 18706	013-753-801	DL 1514 Peace River District
102101M	013-020-081	Lot 2 DL 330 Peace River District Plan 16495
PC4027	012-956-112	Lots DL 329 Peace River District Plan 16495
PB32972	011-742-950	DL 2041 Peace River District
PB32973	011-742-968	DL 1518 Peace River District
PB32971	011-742-941	DL 346 Peace River District
PB32974	011-742-976	W 1/2 DL 345 Peace River District
C8420	011-394-439	Lot 3 DL 2042 Peace River District
104543M	012-680-559	DL 2043 Peace River District
PC21474	013-925-156	DL 1522 Peace River District
PC21473	013-925-113	DL 1521 Peace River District
PC21475	013-925-172	DL 1798 Peace River District
80592M	013-713-957	DL 1519 Peace River District
X25983	004-783-425	Blk C DL 1791 Peace River District
113305M	011-477-431	DL 338 Peace River District
X25984	004-783-433	Blk A DL 1791 Peace River District
80593M	013-713-981	DL 399 Peace River District
PCI6824	013-662-210	DL 1520 Peace River District
PC16825	013-662-228	DL 339 Peace River District
83466M	014-190-184	DL 347 Peace River District
PC27959	014-149-591	Frac. W 1/2 DL 348 Peace River District
PC27958	014-149-524	Frac. E 1/2 DL 348 Peace River District
H3230	014-927-292	DL 2991 Peace River District
85294M	017-001-498	DL 2046 exc. Plan 15273
C11036	011-344-008	DL 1001 Peace River District

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
PL3001	011-344-300	SW 1/4 DL 1000 Peace River District
PL3003	011-345-306	Frac. N 1/2 of DL 1012 Peace River District
PC20751	013-864-441	The east. 20 chains of the fract. S 112 DL 1012 Peace River District
PC27343	014-106-957	NW ¼ DL 1008 Peace River District
PC27342	014-106-949	SW 114 DL 1008 Peace River District exc. S 1/2
82138M	013-768-671	S ½ of SW 1/4 DL 1008 Peace River District
PC20750	013-864-408	Blk A D1 1082 Peace River District
84427M	013-842-862	Fract. W 1/2 DL 1009 Peace River District
PL3002	011-345-241	W 112 of E 1/2 DL 1009 Peace River District
111900M	011-584-254	Blk A DL 1081 Peace River District
81369M	013-713-973	Fract. W 112 DL 1011 Peace River District
D3061	011-239-859	DL 841 Peace River District
D3063	011-239-816	DL 842 Peace River District
84282M	013-842-871	DL 435 Peace River District
85891M	013-841-564	DL 1795 Peace River District
99568M	013-035-509	Lot 1 DL 2044 Peace River District
M2037	023-226-927	Portions of the N 1/2 of the NW 1/4 DL 1000 Peace River District
E5260	010-809-210	Lot 1 DL 1000 Peace River District Plan 18622
D3064	011-239-794	DL 840 Peace River District
PB32997	011-742-798	DL 7508 Cariboo District
PB32994	011-742-763	DL 7465 Cariboo District
PB32990	011-742-747	DL 7464 Cariboo District
PB32995	011-742-771	DL 7466 Cariboo District
PB32991	011-742-755	DL 7467 Cariboo District

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
PB32996	011-742-780	DL 7469 Cariboo District
PK5539	017-558-352	DL 7468 Cariboo District
PB33003	011-742-801	DL 7470 Cariboo District
PB33004	011-742-810	DL 7471 Cariboo District
80139M	013-709-208	Pt of DL 7472 Cariboo District Plan B4003
112579M	011-530-065	DL 7472 Cariboo District Plan B4003
PB32999	011-742-836	DL 7474 Cariboo District
PB32998	011-742-828	DL 7473 Cariboo District
PB330011	011-742-861	DL 7519 Cariboo District
PB33002	011-742-879	DL 7520 Cariboo District
PB33000	011-742-852	DL 7475 Cariboo District
82763M	014-206-544	DL 7492 Cariboo District
PB32992	011-742-887	DL 7476 Cariboo District
PB32993	011-742-895	DL 7477 Cariboo District
D5706	011-234-091	DL 7479 Cariboo District exc. Plan 17863
90771 M	013-457-624	DL 7486 Cariboo District
74819M	013-593-803	DL 7489 Cariboo District
82867M	014-220-326	Pt of DL 7482 Cariboo District Plan B3148
113600M	011-530-120	DL 7482 Cariboo District except Plan B3148
113599M	011-530-197	DL 7483 Cariboo District exc. Plan 17924
110894M	011-640-791	Pcl A (B 12097 & Plan 17080) DL 7481 Cariboo District
T27310	015-300-986	DL 12397 Cariboo District
D8075	011-165-987	DL 260 Cariboo District
R28924	015-138-224	DL 5176 Cariboo District
89012M	013-456-318	DL 2549 Peace River District

<b>Title No.</b>	<b>PID No.</b>	<b>Legal Description</b>
BB936196	027-898-717	DL 4160 Peace River District

115. Land Act Grant to Pacific Great Eastern Railway Company under Document No. 1265 for Lots 12572 and 12571; reservation re: Conditional Water Licence 27722
116. Land Act Grant to Pacific Great Eastern Railway Company under Document No. 472 for Lots 12478 and 12479; reservation re: Conditional Water Licence 27722
117. Reserve Maps and grant of Reserve 56020
118. Bennett Dam site Mineral Tenures
119. Order in Council 2596 dated July 31, 1973 regarding Finley Forest Reserve
120. Order in Council No. 248 approved and ordered February 26, 1991 regarding Finley Forest Reserve
121. Indian Land Grant, Document No. E197 dated December 18, 1969, containing charge No. E252
122. Offer of Licence over District lots 1024 and 1025 dated March 22, 1993

#### **Peace Region Transmission Line Tenures**

123. Registered charges related to tenures for transmission lines IL360, IL361, IL364, IL366, IL368, IL373, IL374, 2L309, 5L1, 5L2, 5L3 and 5L4:

<b>Charge No.</b>	<b>Grantor/Date of Registration</b>
25765	Helen Isabel Moore, October 16, 1962
25767	Ivan Golding, October 15, 1962
25786	Olaf Paulson, October 18, 1962
26114	Peace River Forest Industries Ltd., October 16, 1962
26440	Mona Madeline Bowie, December 3, 1962
26817	David E. Armstrong, October 18, 1962
27988	Official Administrator, County of Cariboo, March 15, 1963
29076	Mary Ann Cameron and Harry Clayton Garbitt, September 23, 1963

<b>Charge No.</b>	<b>Grantor/Date of Registration</b>
29736	Lakeshore Resorts Ltd., August 23, 1963
32957	Peace River Forest Industries, July 30, 1964
33367	Arthur McClellan, October 15, 1964
37877	Esme Tuck, September 29, 1965
37975	Marion Cameron, September 30, 1965
39881K	Phyllis Geraldine Graham, February 22, 1966
4114K	Ralph Gilles Parker, June 6, 1966
C16083	Executive Council for the Province of British Columbia, January 23, 1968
C9244	Her Majesty the Queen in Right of the Province of British Columbia, June 11, 1968
D11780	Executive Council for the Province of British Columbia, August 19, 1969
E10494	Mathis Boe, July 21, 1970
E10521	Melvin Kylo, July 15, 1970
E11712	Dorothy Roberta Holt and Jacqueline Muriel Storey, July 15, 1970
E12475	Ardillis Ranch Ltd., July 14, 1970
E135	Executive Council for the Province of British Columbia, December 9, 1969
E17868	Gary James Powell, December 19, 1970
E896	Finlay Forest Industries Ltd., December 2, 1969
F11078	James Ewing McIntosh, June 1, 1971
F11656	Executive Council for the Province of British Columbia, June 29, 1971
F13308	Executive Council for the Province of British Columbia, June 24, 1971
F14716	Kinross McIntosh, Margaret Hobbs and Margaret Marth, August 9, 1971
F1831	Gary James Powell and Peace Valley Farms Ltd., July 15, 1970
F19690	Executive Council for the Province of British Columbia, October 19, 1971
F20248	Leo George Rutledge, May 27, 1971
F3526	Pacific Great Eastern Railway Company, February 16, 1971

<b>Charge No.</b>	<b>Grantor/Date of Registration</b>
F60	Marshall Ness, July 15, 1970
F609	Robert Allan Everleigh, January 6, 1971
F62	Gary James Powell, December 19, 1970
L28192	British Columbia Railway Company, September 21, 1976
P29947	Del Rio Ranch Ltd., August 26, 1980
PB13790	Her Majesty the Queen in Right of the Province of British Columbia stamped March 21, 1988
PB25413	Her Majesty the Queen in Right of the Province of British Columbia stamped June 14, 1988
PF5240	Her Majesty the Queen in Right of the Province of British Columbia, August 20, 1991
PG28380	Ardillis Ranch Ltd., August 13, 1993
PM29181	Fletcher Challenge Canada Limited
PP17900	British Columbia Hydro and Power Authority, May 30,2000
R47566	Larry James Disher and Larry David Disher, November 13, 1981
S11969	James Robert Groves and Clement Lofgren, April 27, 1982
S5958	Frank Oberle and Joan Oberle, January 15, 1982
T13500	Christopher von Unruh, October 27, 1982
Y44856	Her Majesty the Queen in Right of the Province of British Columbia, December 1, 1987
Y47625	Her Majesty the Queen in Right of the Province of British Columbia, December 24, 1987
BA560334	Portage Mountain Yacht Club, October 19, 2006