

The hydro industry and the Aboriginal people of Canada:

Paving the way for new relationships

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The Canadian hydropower industry is actively working to build strong, constructive relationships with Aboriginal people across the country. This paper looks at why this is happening, and discusses three exemplary cases of productive relations between hydropower producers and Aboriginal communities from various provinces in Canada.

The Canadian hydropower industry not only should, but can and must, work with Aboriginal people. This paper discusses some recent developments with regard to the hydropower industry and the Aboriginal people of Canada, and offers a glimpse of what the future holds. The terms Aboriginal people and hydropower industry suggest homogenous identities; however, for the purposes of this paper, the term 'Aboriginal people' refers, in Canada, to three distinct groups known as the Inuit, the Metis and the First Nations. In addition, First Nations represent more than 50 distinct cultural groups with different languages, histories and spiritual beliefs. As for the term 'hydropower industry', the Canadian industry covers nine provinces (Prince Edward Island is the only province in Canada with no hydropower plants), three northern territories, and more than 80 hydropower producers. In short, this paper does not presume to offer an exhaustive account of what is a very complex social, historical, economic and political reality, but simply gives an overview of the present situation from an industry point of view.

Building constructive relationships: Why?

Building good, constructive relations with Aboriginal people is of the utmost importance to the Canadian hydro industry for several reasons. The first is geography. Many hydropower projects in Canada are developed in areas which are inhabited mainly by Aboriginal communities; therefore, these projects directly affect the communities, their environment, their lifestyle, and their activities. While this impact can be positive, as well as negative, it is always important to consider, for ethical and practical reasons, the perspective of the local Aboriginal communities. These communities are, for the most part, not against development; rather, they want to benefit from the development, and to be involved in how it proceeds.

Second, the Canadian Environmental Assessment Act, the federal legislation requiring an environmental assessment for any new hydroelectric project, calls for public participation in the process. In several provinces, environmental assessments for hydro projects are also required and in many cases these also include public consultations. Therefore, hydropower developers are compelled to take into consideration the concerns of local Aboriginal communities, as well as other local communities.

Third, Aboriginal people are the fastest-growing sector of the Canadian population. Today, they represent approximately 4 per cent of the population, but they are growing twice as fast as the overall Canadian population, and in some provinces such as Manitoba and

"For the first time, the concerns of Aboriginal leaders demanding real participation in decision-making about energy projects on our ancestral lands have been heard and concrete steps have been implemented accordingly" - René Simon, Chief of the Betsiamites Innu-Montagnais.

Saskatchewan, they represent more than 12 per cent of the province's population. These numbers are significant both in terms of the future customer base and workforce.

The negotiation and settlement of land claims, the achievement of self-government in certain areas, and several recent court decisions, are redefining the role that Aboriginal people play in Canadian society and the economy. An example was the 1997 Delgamuukw decision, where the Supreme Court of Canada stated that Aboriginal people should be informed and consulted on developments that may affect them, their environment, their culture and their way of life.

Finally, Aboriginal leaders across Canada are becoming more and more vocal about the need for their people to become self-reliant, and in their view, one way they can achieve this is by managing the natural resources on the land they use, for example, fish, lumber or power. Innu Nation president Peter Penashue wrote recently in the Canadian newspaper *The Globe and Mail* about the importance of recognizing Innu "ownership of sufficient lands and resources so that we can build a self-sufficient economy". At present, Aboriginal people control approximately 20 per cent of Canada's land mass, and as the percentage increases, more hydropower development will be dependent on the collaboration of Aboriginal communities.

In short, not only is it impossible to develop hydropower projects without the collaboration of local Aboriginal communities, it is also not desirable. The hydro industry in Canada today strives to work with Aboriginal communities in planning the development of projects and in finding ways to mitigate environmental and any other negative effects on aboriginal culture and way of life, while providing employment, training, business opportunities and long-term revenues for these communities.

As the three cases which will be described next demonstrate, the hydropower industry is committed to developing solid relationships with Aboriginal communities across the country. Many companies have best practices and corporate policies regarding Aboriginal people, and several have established Aboriginal relations departments to help build new relationships based on mutual understanding, communication, respect and trust. Because of the disparate Aboriginal groups and communities who live in very different regions with differing history and cultures,

the relationships take many different forms. In British Columbia, for example, where more than 95 per cent of the province's land mass is at present subject to comprehensive land claims, hydropower developers must start from scratch. On the other hand, relations with Aboriginal communities in Québec and Manitoba are broadly based on previous land claims settlements, the James Bay and Northern Québec Agreement of 1975 and the Northern Flood Agreement of 1977, respectively.

BC Hydro's water use planning process

In 1998, to address environmental and water management issues in the province, the Government of British Columbia asked the public utility BC Hydro to implement water use planning for each of their hydroelectric plants across the province. The Water Use Plan Program reviews the operations of BC Hydro's hydro stations to "ensure that the different water use interests such as hydroelectric, industrial, recreational, community, flood management, wildlife, and fish habitat are considered".

Once completed and approved, these plans will be used to direct dam or hydropower generating station operations, and may reduce the risk of flooding, and minimize negative impacts on fish, fish habitats and the way of life of Aboriginal people. All water use plans (WUPs) must reflect a balance of economic, social and environmental concerns, and must involve scientific as well as traditional aboriginal ecological knowledge. Water use plans for BC Hydro's more than 30 hydroelectric plants should be completed within five years.

The review of BC Hydro's plants involves BC Hydro, government agencies, First Nations, other interested parties and the general public. Because many BC First Nations are concerned about the impacts of dams and hydro plants on their way of life and the territory they use, BC Hydro funded the BC Aboriginal Fisheries Commission to co-ordinate a First Nations' review of the province's draft "Guidelines for Water Use Planning" in 1998. This review resulted in 17 recommendations. Most were addressed by the province through changes to the final guidelines, which apply to all water licensees.

Some of the outstanding recommendations related to more difficult issues, such as joint decision-making and dispute resolution. To address these concerns, the parties negotiated an innovative approach involving First Nations in the management structure for BC Hydro's WUP process.

This management structure includes a First Nations Water Use Planning Committee (FNWUPC) comprising

members from tribal organizations and First Nations from across British Columbia whose territory or culture could be affected by BC Hydro operations. The FNWUPC appoints a representative who sits on the WUP Management Committee overseeing the WUP Program for BC Hydro, and who offers input on the specific issues and concerns of the different Aboriginal groups and communities, as well as bringing a First Nations perspective to the process.

The intent of the WUP Program and of the FNWUPC is "to ensure that First Nations perspectives and interests (including aboriginal title and rights) are fully considered in decisions regarding the development of water use plans".

The BC Hydro Water Use Plan Program is ongoing, and is only one example of BC Hydro's commitment to establishing mutually beneficial relations with First Nations.

Since the creation of their Aboriginal Relations Department in 1992, BC Hydro has implemented an Aboriginal Business Opportunities Program, and a First Nations Pre-Employment Training Program. These programs are designed to improve employment and business opportunities for Aboriginal people and reflect BC Hydro's statement of principles regarding Aboriginal people: "BC Hydro recognizes that the Aboriginal population of British Columbia has a distinct legal, historical, and cultural status, and is committed to working with the Aboriginal population according to the following principles: cooperation, communication, impact of hydro operations, resolution of disputes, community and economic development, and employment".

Manitoba Hydro and the Tataskweyak Cree Nation

Approximately 80 per cent of Manitoba's hydropower is produced in the North. Hydropower development significantly affects the northern Manitoba economy, as well as northern aboriginal communities. Clearly, as Robert Brennan, President and CEO of Manitoba Hydro, notes, the activities of Manitoba Hydro and Aboriginal interests are closely linked. For this reason, Manitoba Hydro, the province's publicly owned utility, is committed to strengthening its relations with Aboriginal people. More specifically, the utility "will encourage and support employment, training and business development opportunities for Aboriginal people in a manner that reflects their self-expressed needs, expectations and values".

This commitment is reflected in the fact that 22 per cent of Manitoba Hydro's northern workforce is composed of Aboriginal people (March 2001), and that Manitoba Hydro has introduced special measures to support and accelerate the employment access of Aboriginal people, such as enhancing awareness of employment opportunities, offering assistance to education and eliminating barriers to employment, as well as introducing training programmes for access to higher paid skilled jobs. In addition, since 1990, more than 800 contracts representing considerably more than C\$ 100 million in contract value have been awarded to northern Aboriginal businesses.

However, the best example of Manitoba Hydro's commitment to Aboriginal people in the northern part of the province is revealed in the planning of future hydroelectric projects. Currently, First Nations and Manitoba Hydro are involved in ongoing discussions with regards to three possible hydro projects, Wuskwatim, Notigi, and Gull Rapids. These discussions focus on the mitigation of local negative effects of these future developments on the land, habitat, wildlife, and the Aboriginal traditional way of life, as

Manitoba: Chief of the Tataskweyak Cree Nation, Duke Beardy (left), Manitoba Premier Gary Doer (centre) and Northern Affairs Minister Eric Robinson participate in the signing of an Agreement-in-Principle for the proposed Gull generating station at a celebration in the community of Split Lake on 17 October 2000.



well as on the development of social and economic opportunities for local Aboriginal communities, such as jobs and business participation.

Two potential sites, Wuskwatim and Notigi, are in the Nisichawayasihk Cree Nation resource area; another, the Gull Rapids site, is in the Tataskweyak Cree Nation resource area. Both Cree Nations have comprehensive implementation agreements under the Northern Flood Agreement signed by the federal and provincial governments, Manitoba Hydro and the Crees in 1977. The Northern Flood Agreement, a land claims settlement, allowed the development of the Lake Winnipeg Regulation/Churchill River Diversion projects, while compensating members of five First Nations (Split Lake, Nelson Lake, York Factory, Norway House and Cross Lake) for environmentally related adverse effects on their lands, pursuits, activities, and lifestyles resulting from the projects. Several programmes designed to improve the living conditions and the employment opportunities of the five First Nations also resulted from this agreement. The joint planning processes for future hydro development are consistent with the terms of the Northern Flood Agreement.

The results of these on-going discussions have already been fruitful. In 2000, Manitoba Hydro concluded an 'Agreement-in-principle' with the Tataskweyak Cree Nation of Split Lake, which enables the Tataskweyak Cree Nation to acquire up to 25 per cent ownership interest in the proposed Gull Rapids hydro development. This Agreement-in-principle represents the outcome of several years of work on behalf of the Tataskweyak Cree Nation and Manitoba Hydro to reach a consensus on how best to reduce the negative impacts and maximize the local opportunities from future hydroelectric facilities. The agreement also provides the framework for future project agreements, and includes issues such as project benefits, equity participation, environmental assessments, mitigation and compensation.

The decision has not yet been made to proceed with any new hydro project. The signature of the agreement-in-principle marks the next step of the consultation process with local Aboriginal communities. However, whether this particular project is developed or not, the agreement reveals that the hydropower industry and Aboriginal communities can work together to develop hydro plants to the benefit of the utility, the Aboriginal communities, and the province as a whole.

Hydro-Québec and the Pesamit Agreement

In its recent strategic plan, Hydro-Québec, the provincial public utility and one of the largest electric utilities in North America, made a commitment to respect three essential conditions for the development of future hydro projects. These conditions are that any new project must be economically sound, environmentally acceptable, and well received by local communities.

With these three preconditions in mind, on 21 June 1999 Hydro-Québec reached an important agreement with the Innu-Montagnais of Betsiamites.

The agreement covers the partial diversion of the Portneuf, Sault-aux-Cochons and Manouane rivers on the North Shore of the Saint-Lawrence river and the construction of a hydroelectric generating station on the Toulmoustou river.

Before ratification of the agreement, the Betsiamites Band Council submitted the agreement to a community-



Québec, 21 June 1999. Reaching an agreement: Betsiamites head negotiator Jean-Marie Picard, Betsiamites' chief René Simon, Hydro-Québec CEO André Caillé and Thierry Vandal, Executive Vice-President, Generation.

wide referendum on 18 August 1999, and 80 per cent voted in its favour.

The Pesamit Agreement defines the terms of the long-term partnership between the Betsiamites and Hydro-Québec over the study, the construction, and the operation of the planned projects. Under the terms of the agreement, the Betsiamites will invest 17.5 per cent of the cost of the diversion projects and will, accordingly, receive the same percentage of revenues from the electricity produced as a result of the diversion projects. Hydro-Québec has agreed to buy this electricity from the community, under an agreed pricing formula, over a 50-year period which can be extended. In addition, more than C\$10 million will be provided to the Betsiamites by Hydro-Québec for their community development fund. The signatories of the agreement set a common objective of 12.5 per cent of total person-years of employment by the Betsiamites Innu in all projects, from the study to the construction phase. An Aboriginal employment coordinator was selected by both parties to help reach this target.

Since 1993, Hydro-Québec has applied an integrated enhancement and development policy when developing hydropower projects. In practice, this translates into the provision of funds to support environmental enhancement, promote the economic development of regions and Aboriginal communities or nations affected by the project, and alleviate the impact on traditional hunting, fishing and trapping activities. Remedial works corporations (known as SOTRACs from the French, *Sociétés de travaux correcteurs*) jointly owned by Hydro-Québec and the affected Aboriginal community are created to develop and implement these corrective and improvement measures.

The establishment of a jointly owned remedial works corporation was also included in the Pesamit Agreement. The SOTRAC-Betsiamites Corporation, as this corporation is known, is responsible for: minimizing the negative impacts of the project, while promoting positive impacts, traditional activities and pursuits; enhancing the conditions under which these activities take place; and facilitating the use of project areas by the Betsiamites Innu.

The practice of negotiating agreements for projects affecting Aboriginal people originated with the James Bay and Northern Québec Agreement, of 1975, a land claims settlement which provided for the development of the James Bay hydroelectric complex, while giving Cree, Inuit and Naskapis communities exclusive rights to a portion of the land, and compensation of C\$ 225 million over 20 years.

The Pesamit Agreement however, goes beyond any previously signed agreement in Québec between Aboriginal people and the provincial utility in that the Betsiamites Innu are shareholders with Hydro-Québec of a hydropower project.

Chief of the Betsiamites Innu-Montagnais René Simon, who signed the agreement on behalf of the Betsiamites Montagnais Band Council, describes the innovative approach of the agreement: "The philosophy of this agreement constitutes a giant step forward compared with all other agreements signed to date between Aboriginal groups and the public corporation Hydro-Québec. [...] For the first time, we are establishing a real partnership between the parties. Though the legal significance of our territorial rights has not been settled, we have nonetheless finally won recognition of a form of co-ownership of the energy that will be produced from the hydroelectric potential of our rivers and we can enjoy the spin-offs of this co-ownership".

Conclusion

The BC Hydro Water Use Plan Program, the agreement-in-principle between Manitoba Hydro and the Tataskweyak Cree Nation of Split Lake, and the Pesamit Agreement between Hydro-Québec and the Betsiamites Innu-Montagnais community are three concrete examples of the new relationships being built today between the hydropower industry and Aboriginal communities in Canada. These relationships, founded on mutual respect, communication, collaboration, trust-building and an equitable sharing of resources and benefits, have paved the way for more partnerships, agreements and joint ventures. ◇

BC Hydro

The third largest electric utility in Canada, BC Hydro, a provincial crown corporation, serves more than 1.5 million customers. More than 90 per cent of BC Hydro's electricity is produced by 32 hydroelectric plants. BC Hydro's mission is "to provide integrated energy solutions to customers in an environmentally and socially responsible manner".

Manitoba Hydro

Manitoba Hydro, a crown corporation owned by the province of Manitoba, is the fourth largest utility in Canada. The electricity generated and distributed by Manitoba Hydro comes from 14 generating stations, 12 of which are hydroelectric. More than 95 per cent of the electricity produced by Manitoba Hydro comes from water power. Its vision is: "To be recognized as the best utility in North America with respect to safety, rates, reliability, and customer satisfaction, and to be considerate of all people with whom we have contact".

Hydro-Québec

Hydro-Québec, a publicly owned business corporation, is the largest electric utility in Canada and one of the largest in North America. Hydro-Québec owns 49 hydroelectric plants and 93 per cent of its energy supply comes from hydropower. Hydro-Québec is "committed to developing and exploiting natural resources for energy use in a harmonious and sustainable way, with the support of communities, and with the objective of serving society's best interests".

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