

# SEXQÉLTKEMC

*The Lakes Division*  
of the Secwepemc Nation

## “Spider’s Web and Coyote”



BCUC Inquiry: Scope  
Lakes Division Submission  
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## **ABORIGINAL TITLE & RIGHTS**

Over the last 35 years, a number of court decisions have made reference to Aboriginal title. In 1973, the Supreme Court of Canada confirmed the existence of Aboriginal title as a concept in Canadian common law. Since then, the courts have provided more information on what Aboriginal title is and how Aboriginal title can be proven in the courts. The Supreme Court of Canada has stated that in order to prove Aboriginal title in the courts, there needs to be a thorough examination of an Aboriginal group's traditional use and occupation of an area. Important court cases that reference Aboriginal title include: Calder, James Bay Cree, Delgamuukw, Bernard and Marshall.

In the 1973 Calder decision, the Supreme Court of Canada confirmed the existence of Aboriginal title as a concept in Canadian common law. In the mid 1970s, the Cree of James Bay went to court to stop the James Bay hydro-electric project. The Cree argued that they had title to the land that would be flooded by the project. They also argued that the project would threaten their traditional way of life by damaging the environment. In 1973, the Quebec Superior Court ruled in favour of the Cree, noting the First Nation had been occupying and using the land to a full extent. In the Delgamuukw case, the Gitksan and Wet'suwet'en laid claim to their traditional territory in BC, asserting that pre-existing Aboriginal rights and title had not been extinguished. In the 1997 Supreme Court of Canada decision, the issue of Aboriginal title was sent back to trial, as the judge erred in consideration of the facts presented in court. However, in the reasoning for the decision, the Supreme Court of Canada provided its first comprehensive statements on, and established a legal test for, Aboriginal title. The court said:

- Aboriginal title is a collective right by an Aboriginal group to the exclusive use and occupation of land for a variety of purposes, which need not be activities that the group has traditionally carried out on the land;
- Aboriginal title is an Aboriginal right protected under section 35 of the Canadian Constitution;
- Aboriginal title lands must not be used in a way that is irreconcilable with the nature of the group's attachment to the land; and,
- In order for the Crown to justify an infringement of Aboriginal title, it must demonstrate a compelling and substantive legislative objective, it must have consulted with the Aboriginal group prior to acting, and in some cases, compensation may be required.

Many claims to Aboriginal rights and title remain outstanding across Canada. These claims will be resolved either through negotiations with First Nations, or they will be decided by the courts on a case-by-case basis. While case law has established the existence of Aboriginal title conceptually and has provided guidance on the definition of Aboriginal title, most of today's claims regarding Aboriginal rights and title are resolved through negotiation processes. Negotiated agreements give First Nations and federal and provincial/territorial governments the opportunity to define their relationships and establish fair agreements that work for all Canadians.

## ***The Secwepemc Nation***

The interior plateau is home to four cultural groups including the Secwepemc, Lillooet, Thompson, and Northern Okanagan. Although these groups are all related linguistically in the Interior Salish language family, there is variation between and within each territory. The Secwepemc “People of the spread out place” are the largest Interior Salish speaking aboriginal people or nation in the interior of British Columbia. Their traditional territory encompasses some 145,000 square kilometres (See Figure 1 Secwepemc Traditional Territory) extending from the Columbia River valley on the east slope of the Rocky Mountains to the Fraser River on the west and from the upper Fraser River in the north to the Arrow Lakes in the south. Before the smallpox epidemic of 1862, there were thirty Secwepemc bands with an estimated population of 21,000. Today seventeen First Nations bands make up the Secwepemc Nation with a population of over 7,000.

Archaeological evidence indicates that the southern Interior of British Columbia has been occupied for approximately 11,000 years. Archaeologists have devised a three period scheme in order to organize the culture history of the area that consists of; an Early Period ca. 11,000 to 7,000 BP; Middle Period ca. 7,000 to 3,500 BP; and a Late Period ca. 3,500 to 200 BP (BP = Before Present, where “present” is AD 1950). Each archaeological period represents a particular time segment and a particular pattern of diagnostic artifact assemblages (Stryd 1996).

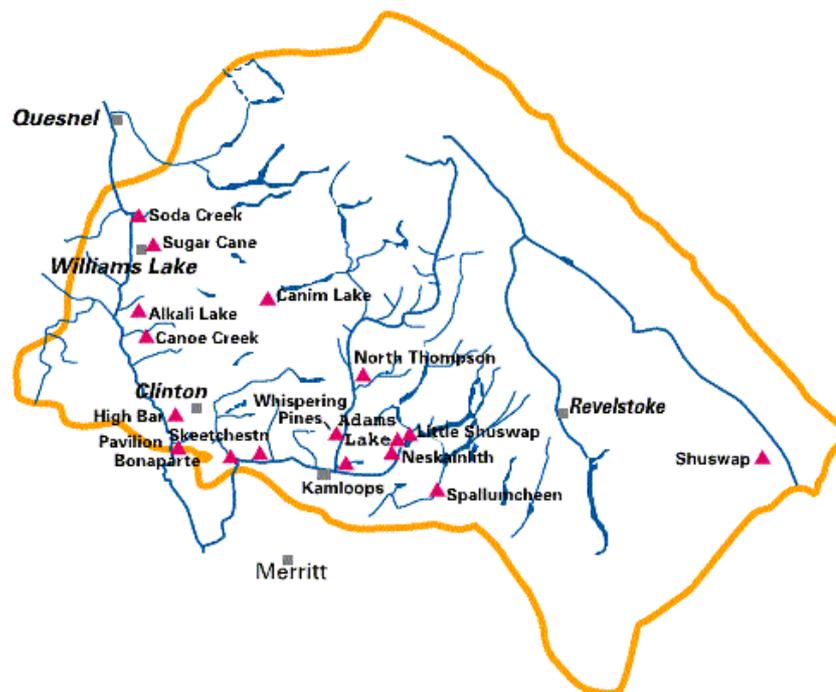


Figure 1. Secwepemc Traditional Territory

A semi-sedentary lifestyle dependant on fishing, gathering, and hunting for subsistence, characterized traditional Secwepemc culture. The Secwepemc calendar year was made up of five seasons, which were composed of moons (Ham 1975). The moon cycle coincided with the annual subsistence round and was an important indicator for intercepting seasonally available resources. Most ethnoarchaeological subsistence studies have focused on salmon fishing as the Interior peoples' main dietary source but wild game meat was as important as fish. Hunting was more prestigious and more ritually significant than fishing (Ignace 1998). Hunting was carried out in task groups of several men accompanied by a hunting leader. Most ungulates were hunted by small groups of men systematically working a stream basin, but in terrain that is more open large parties of men and sometimes women and children worked together under the hunting leader to surround a herd and drive them into a corral and ambush them (Hunn 1998).

Five species of anadromous salmonids spawn in the Plateau Rivers, including Sockeye, Spring or Chinook, Pink, Coho, and Steelhead. During the spring months trout and Kokanee were fished out of the lakes and were consumed fresh. The river valley was used for salmon fishing throughout the summer with the largest salmon runs beginning in July. Salmon were also caught earlier but were considered difficult to dry thus they were often eaten fresh (Alexander 1992). A man could catch up to 300 fish per day whereas women could only process 50-60 fish per day. The 'Fishing Steward' regulated the use of fishing sites. All sites, whether individually or publicly owned, belonged to a particular band that owned the site or village. Allowing regulated access to the fishing site by other bands created opportunities for the band to gain access to other resources found outside their territory (Alexander 1992).

Approximately 135 species of plants were utilized by Plateau peoples as sources of foods, flavourings and beverage plants (Hunn 1998). Root species that were intensively utilized by the Secwepemc included the Spring Beauty (*Claytonia lanceolata* or Indian Potato) and Yellow Avalanche Lily (*Erythronium grandiflorum*). Roots were dried, boiled, steamed, or roasted and eaten immediately or cached in coiled cedar root or birch bark baskets and woven fibre bags for storage or trade. Plant species were also utilized for beverages such as Labrador tea, and for other traditional Secwepemc technologies. Medicinal plant species were estimated somewhere between 250 to 300 and many of them were used as charms, healing and "spiritual" medicines for strengthening, purification, and protection.

Ethnographically the Secwepemc peoples exhibited three main settlement types that are thought to reflect intensive exploitation of resources within the Plateau area. These three major settlement types were winter pit house villages located on river benches, short-term resource extraction base camps, and summer-river fishing camps. Pit house villages consisted of pit houses, sweat lodges, and women's lodges. The semi-subterranean winter earth lodges are characteristic of all Salish tribes of the interior and are generally called 'keekwilee-house' in the trade jargon (Boas 1890).

Secwepemc groups had their own chiefs, and social classes that were divided into inherited nobility and common people. The family lineage is paternal therefore the inheritance of chief is from father to eldest son or from eldest brother to younger brother. Bands were of flexible membership and consistent of a network of extended families and households that pursued the same subsistence

pattern. The interaction between residential units was bonded through cycles of reciprocal obligations, which involved food sharing and exchange of goods and services (Ignace 1998). The governing of the community was the responsibility of the local hereditary chief who was counselled by a group of elders (Hill-Tout 1899). The political organization consisted of small bands, or grouping of villages that were bonded by commonalities such as, habitat, interests, customs, values, religion, and language (Ray 1939).

Among the Secwepemc, spiritual beliefs and mythical stories are based on the principle of respect for all life and nature. All things possess a soul, therefore when an animal or plant is harvested the belief is that the animal or plant consciously decides to surrender its body to the hunter, fisher, or gatherer as a gift of life. Natural Resource Management was an integral part of the belief system, which stipulated a spiritual connection between humans, animals species and nature in general. Natural Resource Management practices of the Secwepemc included selective harvesting, prescribed burning, pruning, replanting bulbs, and the value system. The value system ensured that all parts of an animal were used and that nothing was left to waste. Individuals who did not abide by this system were condemned for their wastefulness.

The stories told by the Secwepemc were used to pass on cultural or historical information to teach lessons, or simply to entertain. The Secwepemc do not have an origin story because they believe that the earth always existed and that it had just undergone certain transformations. It is important to recognize that the Secwepemc people did not consider time and place to be permanent features and that time can and often does shift in any and all directions. The earth was small and surrounded by lakes and had just begun to emerge from the Under-water world. This was a time of mythical beings that had the attributes of both people and animals.

*“At the beginning, the earth was very small, but it gradually became larger, emerging more and more from the waters... The people who inhabited the earth during this period partook of the characteristics of both men and animals. They were called stspetékwl. Some were cannibals. At that period many kinds of animals, birds and fished did not exist, nor many kinds of trees, plants, and berries. The earth was much troubled with great winds, fires and floods. In those days the Old-One....sent Coyote to travel over the world and put it to rights, He was gifted with magical power beyond that of all the other mythological beings, and had great knowledge and cunning; yet often he proved himself to be selfish, lazy and vain, doing many foolish and bad tricks. In fact, he was fond of amusing himself and playing tricks on other people. Nevertheless he did a great deal of work, which benefited the people, and did away with many evil beings.*

*Although Coyote was a long time on earth and travelled all over it yet he left much of his work undone. Probably his greatest work was introducing of salmon into the rivers, and the making of fishing-places... The Old-One was*

*the chief of the ancient world and finished the work of Coyote and other transformers, leaving the earth in the way we see it at present” (Teit 1909)*

These characters were the powerful ancestors of the Secwepemc who traveled across the landscape transforming things into their present-day form. It was the “Old One” who sent these transformers to the earth to make the world ready for the Secwepemc people, as well as to teach the people to respect nature and use specific cultural skills (Ignace 1998). One of the well known transformers is Sk’elep. Sk’elep (Coyote) was a figure that possessed great magical powers but was labelled as a trickster who was selfish and cunning. Through his adventures he created useful and beautiful landmarks throughout the Secwepemc territory. Sk’elep is most famous for introducing salmon into the mid-Fraser and Thompson Rivers. Due to Coyote’s foolishness and inability to complete his work, the Old One himself had to finish the work and transformed Sk’elep into Coyote rocks that can be seen throughout the Secwepemc territory.

It must be acknowledged that not all aspects of traditional Secwepemc culture are recorded in the anthropological and ethnohistorical literature. Other knowledge of traditional culture and life ways still exist in contemporary Secwepemc communities. Moreover, aboriginal societies underwent significant changes as a result of European contact, and some cultural aspects reported in the literature may not accurately reflect that culture prior to contact (Stryd 2002).

Please also refer to “Our Oral Histories are our Iron Posts: Secwepemc Stories and Historical Consciousness” (Ignace Spring 2008).

### ***The Lakes Division***

In 1909 ethnographer James Alexander Teit, as part of the Jesup North Pacific Expedition, identified seven Secwepemc divisions. The divisions included the (1) Fraser River Division, (2) Canon Division, (3) Lake Division, (4) North Thompson Division, (5) Bonaparte Division, (6) Kamloops Division and the (7) Shuswap Lake Division (Teit 1909). The Adams Lake (Sexqeltqin First Nation), Neskonlith (Sk’atsin First Nation) and Spallumcheen (Splatsin First Nation) are members of the Lakes Division. Teit identified the Lakes division as the “Sxste’llnemux (“people of the Sxstelln”). These comprise the Indians on the Upper South Thompson, Shuswap Lake, and Spallumcheen River. They hunt south along Salmon River, north on Adams Lake to the Columbia above Revelstoke, and east around Mabel and Sugar Lakes to Upper Arrow Lake.” (Teit 1909).

The Lakes Division is bound by history, traditions and our relationship with the lands, waters and living things of our territory. “When the first drop of water hits the land in our territory, our title and rights begin” (Dennis 2009). The communities of Neskonlith, Adams Lake and Splatsin have been united by their common interest to further their assertion of Aboriginal Title & Rights. Their overall goal is to re-instate themselves as *Yecwemíntelmin Secwepemcúlecw* (Caretakers/Stewards of the Secwepemc traditional territory).

## **BCUC INQUIRY PROCESS**

### ***Process Summary & Timelines***

On December 11, 2008 Honourable Richard Neufeld, Minister of Energy, Mines and Petroleum Resources (MEMPR) submitted to Mr. Len Kelsey, Chair and Chief Executive Officer of the BCUC the approved Terms of Reference for the Inquiry.

Before this point in the Inquiry, the Lakes Division should have been contacted and properly consulted so that they could work together with the MEMPR to create a “new institution or structure(s) to negotiate Government-to-Government Agreement(s) for shared decision-making regarding land use planning, management, tenuring and resource and benefit sharing” (The New Relationship 2005). This process would have allowed the Lakes Division to articulate and provide input and advice for inclusion to the Order and Terms of Reference. If this had been done the MEMPR would have had the opportunity to approve an Order and Terms of Reference that supported the inclusion of Aboriginal interests in partial fulfillment of their legal responsibility to consult with First Nations. In this best case scenario the Lakes Division would have insisted that the scope of the Inquiry include the footprint impacts of the Transmission Line and Corridor construction as an issue to be addressed. Instead the Terms of Reference were granted merely stating 10(a) “the Commission: must invite and consider submissions, evidence and presentations from any interested person, including without limitation, First Nations” (BC December 11, 2008).

BCUC’s first contact with First Nations was on April 1, 2009 with a letter of invitation titled: *Re: British Columbia Utilities Commission Project No. 3698545/Order G030-09 Inquiry into British Columbia’s Long-Term Transmission Infrastructure.* BCUC in this letter declares, “By way of this letter, the Commission is inviting participation in the inquiry by interested First Nations of First Nation groups. First Nations groups may participate individually or through another First Nation organization such as the First Nations Energy and Mining Council. First Nations are invited to attend the preliminary workshop and Procedural Conference, but not attending will not preclude the ability to make submissions or engage in the proceedings at a later date”.

The result of the MEMPR’s lack of consultation with First Nations has resulted in an illegal process which breaches BC’s Provincial Consultation with First Nations Policy (BC October 2002). This is also in direct conflict with The New Relationship and its principle to achieve “integrated intergovernmental structures and policies and to promote co-operation including practical and workable arrangements for land and resource decision-making and sustainable development”. Consequently the entire Inquiry process, including the approved Terms of Reference (BC December 11, 2008), for the BCUC section 5 Inquiry is illegal and in direct dereliction of Aboriginal interests of the Lakes Division.

In the BCUC staff scope document (BCUC May 21, 2009) the staff acknowledge where the Terms of Reference invite and consider submissions, evidence and presentations from First Nations. They further point out the regional sessions to be held in the fall 2009 that are apparently consistent with the First Nations Energy and Mining Council. Firstly, the Lakes Division is not represented by the First

Nations Energy and Mining Council. Secondly to limit our “informed decision-making” to a regional session is unacceptable.

The staff further show that a number of participants in the Inquiry note the importance of First Nations issues and participation in the Inquiry. BCUC staff further stipulate that “First Nations must have an opportunity to participate in the Inquiry in a manner that is consistent with the Terms of Reference for the Inquiry and which aligns with the BC Hydro/BCTC consultation process”. We again point out that neither of these processes were developed with any input, guidance or advice from the Lakes Division and are therefore in contradiction to the New Relationship (2005).

In its letter dated April 1, 2009 the Commission stated that it also understands that “the Province has requested that BC Hydro undertake consultation with First Nations regarding any evidence and submissions that BC Hydro and BCTC will be providing to the inquiry. The Commission wishes to be clear that the consultation to be undertaken by BC Hydro does not preclude any First Nation or First Nation group from providing evidence or submission to, or otherwise participating in, the Transmission Inquiry directly.”

The Lakes Division submitted a Capacity Funding Proposal to BC Hydro that would allow the Lakes to financially support our participation in the Inquiry. However, in a letter to Chief Wayne Christian of Splantsin dated May 11, 2009, BC Hydro stated that it would be, “conducting consultation with First Nations in BC regarding the information that BC Hydro and the BC Transmission Corporation will be submitting to the Inquiry.” They propose consultation with First Nations in the form of a workshop to be held in Kamloops on July 6, 2009. They further followed up on this with a letter dated May 28, 2009 where they will “support” our participation by paying \$0.52/km, \$45/day for meals, and up to \$125/day for hotel accommodation.

The Lakes Division Issues are these:

1. MEMPR developed the Order and Terms of Reference without consultation.
2. Due to this there is no institution/structure or mutually developed agreement to describe our participation in the BCUC section 5 Inquiry, ensuring that our interests are properly supported and incorporated.
3. The BCUC is now supporting a “BC Hydro/BCTC consultation table” and process which we have shown only supports the BC Hydro and BCTC contribution to the Inquiry (i.e. NOT First Nations).
4. The Lakes Division is receiving no funding or monetary support to allow us to take the Inquiry issues back to our communities for consideration and/or make INFORMED DECISIONS regarding the Inquiry.

## **PAST- (TRANSMISSION LINE CONSTRUCTION)**

### ***Infringement & Losses***

Before the transmission lines, the forested areas cut down and cleared for the power lines, provided nourishment and shelter. These lands were a part of a carefully managed ecosystem, which acted as the foundation for our people. In essence the Land and the People act as mirrors to one another and now both reflect the effects of western civilization like a battle scarred soldier.

When the transmission corridors were cleared and lost owing to the construction of the transmission lines many losses were experienced. Social, emotional, spiritual/ceremonial, economic, health, environmental (water, land and resource use), language and traditional skills & knowledge were all losses experience by the Lakes People. The magnitude, nature and severity of these losses must be properly examined and documented through the provision of adequate funding.

### ***Reconciliation***

Some of these losses can be addressed, at least in part, through mitigation activities and compensation, whereas other losses cannot be addressed except through accommodation. The Lakes Division must be adequately funded to examine, document and explore these options so that appropriate means are applied in accordance with the severity and magnitude of the social, emotional, spiritual/ceremonial, economic, health, environmental (water, land and resource use), language, and traditional skills & knowledge losses.

## **PRESENT (LINE MAINTENANCE & FURTHER ADDITIONS)**

### ***From Infringement & Losses to Mitigation & Accommodation***

To try and disseminate one transmission line or corridor from another would be like Coyote trying to pull a single thread from spider's web. We must look at the effects of the entire transmission system in our territory and how its effects interact with the many other impacts on our territories.

### **Environmental (Water, Land and Resource Use)**

The environmental effects of the Transmission Corridors and Lines felt at present are no more or less than a continuation of the effects which started with their inception. For us to purport that we can support further transmission line installations and operations we must first know what the baseline data and effects of the current Transmission system.

The environmental studies and data will need to be compiled and analysed in order to quantify the magnitude and nature of the effects created by the transmission lines and their corridors. For example the clearing of corridors creates edge habitats, which may be higher in overall species diversity, but at the same time may be detrimental to interior habitat species like the endangered Spotted Owl.

We strongly recommend that projects are undertaken to feed into an overall Cumulative Effects Modelling project. Around the world, landscapes are undergoing rapid transformation in response to multiple overlapping land and water uses that include the energy sector. Collectively these land uses create a “footprint” that impacts ecosystem health and sustainability. Using computer simulation models, we could undertake cumulative effects assessments to assist with evaluating the potential consequences of different land and water uses strategies in a virtual environment. This could help us to understand the level of risk that different management strategies would impose on the sustainability of natural systems and also help identify strategies that will minimize the overall adverse affects.

We propose that the Lakes Division is adequately funded to undertake an extensive Cumulative Effects Modelling Project for its traditional territory. This model would include the many other impacts (forestry, mining, original dam construction, etc...) in order to assess the magnitude of the effect of the transmission system and any proposed additions. We would in essence be able to predict if the current ecosystem in its altered state can handle further impacts and possibly identify areas and means for mitigation.

We would also like to see a campaign made on how even “green-energy” is detrimental to our lands and waters. The idea that Run-of-River, or large hydroelectric dams are a “green” and safe alternative to carbon based electrical generation is a myth. We must educate the public and government on the costs felt by our rivers, lands, fish, birds, insects, reptiles, amphibians, mammals, and plants. This is a cost that will be paid by our future generations and people must know that there is a cost and an effect when we increase the use of hydro-electricity as a means of reducing carbon emissions.

### Economic

The Inquiry Terms of Reference specifically identify consideration for the export of excess “green-energy”. When a structure is created between MEMPR, BCUC and the Lakes Division we will be able to address revenue sharing. The electricity generation and transmission is occurring on lands and waters stolen from the Lakes People and this issue must be addressed.

### Health, Social, Emotional

Old One was the one who reminded us to be respectful to all living things. This notion of respect is at the core of our beliefs about our interaction with the land and all things in it: Xyemstém/me7 xyemstec (“be respectful”) entails the management and careful harvesting of all plant and animal resources, lest they disappear on us in disgust, and we become pitiful (qwenqwént).

Coyote built an underground house on the Upper North Thompson River, at a place now called Coyote’s House. It was afterwards turned into rock, and may be seen there at the present day. He spent several winters at this place. One fall, salmon came up the river in great numbers, and he made up his mind to catch a large supply, saying, ‘I will dry very many, and then will invite all the people to a great feast.’ By the time the salmon ceased running, he had filled many sticks, and was delighted when he viewed the large amount of fish he had on hand. One day as he was passing underneath the sticks where salmon was hanging, his hair caught in one of them, and this made him angry. Four times this

happened, and each time he became angrier. The last time he became very angry, saying, ‘Why can’t I pass underneath these fish without their catching in my hair?’ He tore down the offending salmon and threw it into the river. At once it came to life and swam away. Then all the salmon came down from the sticks and plunged into the river. In vain Coyote tried to stop them by catching them and clubbing them. In a short time they had all disappeared, and he was left without supplies for the winter, and had to give up the project of giving a feast. Now he gathered up all the slabs of wood which he had used for splitting salmon on, and all the poles on which they had been hanging. He took them up to his house, and said, ‘I will boil them in the winter-time and have fish soup.’ (Teit 1909; story told by George Sisyulecw from Simpcw).

We have spent many years now in direct disrespect to our surroundings and the living things which give us life. We are all suffering the consequences of that disrespect as sickness, addictions, greed and sadness plague our people. We suffer sicknesses from the drowning of our rivers; blocking of the salmon; overall mismanagement of our territory and all the effects it has had on ourselves and our relatives and our communities. Only when we (*Tknémentem Secwepemcúlecw*), respect the earth and do not waste natural resources in our traditional territory will our sicknesses recede. Only when we reclaim our rightful place as (*Yecwemíntelmin Secwepemcúlecw*) caretakers and stewards of the Secwepemc traditional territory through a newly developed management model will health and harmony return to our people and our lands.

### Heritage Effects

(Spiritual/Ceremonial, Archaeological, Language, Traditional Skills & Knowledge)

Many spiritual, ceremonial, and archaeological sites were decimated and destroyed during the clearing of the transmission corridors and installation and maintenance of the lines. These losses must be assessed and addressed.

The Lakes Division sees the first step in this process as the development of a Memorandum of Understanding between BCTC and the Lakes Division regarding the Lakes Division’s Heritage Management Framework. This would be immediately followed by an extensive inventory and qualitative analysis of all sites on all transmission lines throughout our territory. This would be followed with an analysis of the losses which could be examined for reconciliation activities and measures.

The transmission lines and corridors have also destroyed historically utilized places (e.g. berry picking patches) and as a result both the traditional skills and knowledge regarding these areas, and the language which surrounded them. These losses must also be examined, documented and analysed to look into reconciliation for these losses.

## **FUTURE**

### ***Co-Management Framework***

We call on the MEMPR and the BCUC to uphold BC's New Relationship and its principle to achieve "integrated intergovernmental structures and policies and to promote co-operation including practical and workable arrangements for land and resource decision-making and sustainable development" (2005). We also call for the creation of a "new institution or structure(s) to negotiate Government-to-Government Agreement(s) for shared decision-making regarding land use planning, management, tenuring and resource and benefit sharing" (2005)

#### **NEXT STEPS:**

- 1) Province of British Columbia (MEMPR) and BCUC recognize that the Lakes Division of the Secwepemc Nation have Aboriginal Title and Rights.
- 2) MEMPR (Minister), BCUC (Commission), BCTC (CEO), BC Hydro (CEO) meet with Lakes Division Political Leadership to plan the creation of an Energy Management Agreement.
- 3) Within the Energy Management Agreement, a section developed to outline how the Lakes Division will participate in the decision-making regarding the BCUC section 5 Inquiry.

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