October 2024

The Dokis First Nation and the Okikendawt Hydro Power Project

1. Executive Summary

The Dokis First Nation's story is a unique and incredible story of perseverance, vision, and community resolve. In Canada, First Nations have carved out leadership spaces of their own, often through decades of rights advocacy, and unimaginable loss. Okikendawt Hydro Power is a prime example of working through limitations to create opportunity.

Despite hundreds of years of imposed major developments by the colonial government causing irreversible change to the natural waterways, forests, and wildlife, Dokis First Nation imagined a better future for their territory, in which they could protect the lands and animals while bridging pathways for future generations of energy sovereignty and economic prosperity.

The success of this project has not been linear, there have been many obstacles and setbacks that might make the lessons of this story more valuable to other Indigenous Nations and communities embarking on their own goals of self-determination.

The success of this project can instead be attributed to the strength of the community process, in finding ways to collectively establish these goals, come to agreements, and to involve the right people to support the project.

Dokis First Nation has demonstrated that a small community can dream big and actualize those plans to reality. Their intentional and circular approach to the Okikendawt Project has created impacts that will have ripple effects for generations to come.

Dokis First Nation has emerged a leader by example. This Case Study hopes to highlight some of the realities that the community faced in order to capture its overarching Nation-based interests and values.

2. Background and history of the project

The Okikendawt Hydro Power is a clean energy project developed by the Dokis First Nation in partnership with Hydromega Energy, a private company from Ontario. It generates 10 Megawatts (MW) through two turbines using an existing water control

structure where the French River flows out of Lake Nipissing: the Portage Dam. The Canadian government built the dam in the early 20th century to control the water levels on Lake Nippising and to facilitate the lumber trade on the French River. For years, the Dokis Nation aimed to use the river to generate power near the dams and empower the Dokis Nation. It took more than twenty-five years until the vision of then Chief Marty Restoule became true.

In 2013, the Dokis First Nation ratified its own land code, opting out of the sections of the Indian Act related to land issues. This step allowed the community to manage its land, resources, and environment on its own terms, giving it the agency needed to negotiate with other stakeholders and build new partnerships. Construction of the Okikendawt project started the same year after 97% of the community voted favourably.

Dokis First Nation owns 40% and Hydromega 60% of the project. The financial benefits are managed through the Okikendawt Trust, which has a separate governance structure from the Band Council. It includes Trustees appointed by the Band Council, as well as a professional, qualified and independent Trust Manager and Investment Manager.

3. Methodology

IPRI and BHRC contacted ICE about a project they were working on highlighting Indigenous owned or co-owned clean energy project case studies in different parts of the world. Due to the capacity-building work ICE has undergone in the past several years, there are many Indigenous clean energy projects the team is connected to.

Chris Henderson, ICE's Founding Executive Director, has been directly involved in supporting Indigenous Clean Energy projects over the past few decades and recommended reaching out to Dokis First Nation to see if they would be interested in sharing their project. Chris was the Project Advisor for Dokis; therefore, this close relationship helped us to understand the project in a unique way.

ICE sent an intention letter and outline of the case study parameters to the Dokis Chief and Council. Once they considered the study, they replied favorably and invited our team to a council meeting to discuss the details. In this meeting the Chief and Council agreed to share the Okikendawt project for this report along with their reflections about the project.

With Dokis' approval, our team based the research on public information, shared project information from Dokis, Hydromega, and Lumos, websites and online newsletters. Additionally, Chris and the Dokis First Nation have provided firsthand accounts, quotes

and reflections about the project. The Dokis First Nation held the final edits and approvals to ensure this report reflects the Okikedawt project and story in the best possible way.

4. Overview of the business project

The Okikendawt Hydro Project uses water flow, the natural energy of the French River, to produce energy through two turbines. It generates 10 MW at a flow of approximately 160 m^3/s. The energy power is sold to the province of Ontario through a forty-year Feed-in-Tariff (FIT) power purchase agreement.

There are two key factors to the project's successful business model: a) the Dokis' community's direct involvement in the project and b) the partnership between the Dokis First Nation and Hydromega Energy Corp. based on the Dokis land management.

As for the community's involvement, members of the Dokis First Nation were directly involved in the project from the beginning. Considering the hydro project started over 25 years ago, the community and recurrent Band Council leaders envisioned this project as a long-term economic development initiative. Dokis' Chief and Council shared every project stage with the community and called for community votes to advance their plans. The project was approved by an overwhelming 97% and has continued to receive community support as it has been a crucial part of their economic and social development practices.

Secondly, the Okikendawt Hydro Power Project was developed, built, and is currently administered in partnership between the Dokis First Nation and the private company Hydromega Energy (Ontario). The Dokis First Nation chose Hydromega through a comprehensive selection process considering other prospective partners. In practice, this meant the direct involvement of the community not only in the building of the hydro project but also being included in the design and understanding of the partnership agreement.

The Dokis First Nation created the Migisi Development Corporation to administer the Dokis Trust, which has a governance structure separate from the Band Council and includes trustees appointed by the Band Council, as well as a professional, qualified, independent trust manager and investment manager.

The Okikendawt Hydro Trust has successfully achieved the benefits it aimed from its planning phase. The Trust determines four main benefits to the Dokis First Nation: a) community infrastructure (*i.e. land acquisition),* b) economic development (*i.e. recreational facility)*, c) health & welfare (*i.e. medical clinic),* d) reserve account (*i.e. future and extra project funding).* Currently, the project has not only achieved these

purposes but has been able to protect the native flora and fauna, promote cultural revitalization and even recovery and reclamation of human remains from the Field Museum in Chicago.

5. Overview of the Indigenous People

Dokis First Nation is part of the Ojibwe Nation. The community is located on the colonial boundaries that separate the Districts of Parry Sound, Sudbury, and Nipissing, approximately 16 kilometres southwest of Lake Nipissing on the French River in the province of Ontario. Its land is composed of two islands and extends 39,000 acres: the Okikendawt Island in the North and the Southern Island.

The main community settlement is the Okikendawt Island in the North (*Okikendawt* translates as *buckets or pails* in reference to the natural bucket formations in the rocks due to the water flow). There are around 200 people residing on the island, including Dokis First Nation members. Outside the community, there are over 1000 members. While the buckets on this island were places for tobacco offerings, the Southern Island is used by the community for traditional activities, such as hunting or fishing, among others (Dokis FN, n.d.).

6. Description of the community's decision-making process in relation to the project

The Dokis First Nation has a strong connection to the land and a profound bond with the French River. When the community considered having a hydro project, they planned it to be a long-term initiative benefiting future generations. The then Chief and Council, along with the community, envisioned the Okikendawt Hydro project to be a crucial part of the cultural, social, economic and environmental development, as seen in this quote from Chief Denise Restoule:

> "Our culture is deep and enduring for our Ojibway culture; art, history, faith, family, ceremonies and traditions are essential parts of community life. Our people also have a deep and abiding connection to nature. We believe that a run-off-river, small hydro project, planned and built in a sustainable manner, can be culturally and ecologically beneficial whilst contributing to a low carbon future for Canada" (Restoule, n.d., Connect4Climate).

Following the above, the Okikendawt Hydro project counted on the community's involvement and participation in every stage. Community members: men, women, youth

and elders were part of the decision-making process. The Chief and Council organized a community energy information meeting in which young members participated. Additionally, regular meetings (every 3-4 months) were held to update the community and seek the community's approval through voting polls when necessary.

The active participation of the women from the community was key to the project. For example, Denise Restoule, a female Chief of the Dokis First Nation, led the negotiations/consultations for the project from the planning phase until its construction. Her leadership was instrumental in the Okikendawt project and continued the vision of her predecessor, Chief Marty Restoule.

7. Stakeholder mapping

The primary stakeholders of this project include the project partners; The Dokis First Nations and the Hydromega (ONT) inc. Within Dokis First Nations, the internal stakeholders include: Chief and Council; community members; the Okikendawt Hydro Trust which includes members appointed by the Band Council and is responsible for preserving and managing the revenue stream from the Hydro project and land management claim; and the Migisi Development Corporation, the entity through which the Dokis First Nation owns its equity interest in the Limited Partnership economic development corporation.

The government stakeholders included the Ontario government, Ontario Power Authority, Parks Ontario, the Ministry of Natural Resources Government Agencies and Aboriginal Affairs and Northern Development Canada. The project was also supported by the Ontario Waterpower Association.

Lumos Energy was a stakeholder involved as a Clean Energy Advisor for the Dokis First Nations, their services included project analysis, negotiations, project development and financing.

The financial stakeholders of this project include Stonebridge Financial Coorporation who helped secure senior debt financing for Okikendawt, RBC, the Dokis First Nations Bank and TD Bank to help advise and manage the Okikendawt Hydro Trust.

The lead contractors of the project were Miller Construction, Vallard and Andrits, who led the work on transmission line, power plant, road works, tailrace, interconnection line, turbine generating equipment and civil works.

Other external stakeholders who were not directly involved in the project but directly or indirectly impacted by the Hydro project were non-Indigenous property owners, fishers, the Nipissing and French River Nations, and other communities around Lake Nipissing.

8. Description of the engagement process with the private sector & investors for the project

The Okikendawt Hydro project was the result of a long-term and ongoing relationship building processes. In 2007, Dokis Chief and Council started conversations with community members. Once they identified the benefits of developing a hydro power project, it was clear that it was only possible to do it through partnerships with private companies involved in renewable energy, financial institutions and potential investors. This collaborative vision was the foundation not only to develop a successful business case, but also to ensure that the project would benefit future generations.

After a thorough selection process and some deliberation, the Dokis First Nation ratified the limited partnership agreement with Hydromega in 2009. This partnership was crucial for the engagement process with other institutions and investors. For example, Stonebridge Infrastructure Debt Fund I Limited Partnership and Industrial Alliance Insurance and Financial Services Inc. provided $60 million of credit facilities to finance the construction of the project.

9. Identification and brief analysis of enabling conditions

<u>History of Legal Ownership</u>

Since time immemorial, the Dokis Nation has resided on the French River. The Nation hold ancestral and inherent knowledge of the Ottawa River watershed, Lake Nipissing, Lake Huron and many other surrounding kin.

In 1850, Michel "Eagle" Dokis signed the Robinson Huron Treaty. At this time the Dokis Nation was operating a successful fur trading enterprise at Dokis point on Lake Nipissing, which is located at the west end of Nipissing First Nation. In the 1890s, as the trading business slowed significantly, the Dokis moved onto the land they negotiated for, and the Dokis Village was established. In 1909, pressure was put on the Nation to sell the timber rights of the Dokis lands and lumbering became a new revenue. The sale of their timber rights in 1909 made the Dokis the richest Indigenous community in Canada at that time.

Dokis' management and knowledge of the French River remained important throughout the development of the local economy. The Canadian government built dams at major lumber sites, without the involvement or consent of Dokis People. This significantly restructured the French River which impacted the Dokis’ primary economies and way of life. The French River Dams Complex comprises 3 dams: the Little Chaudière Dam (built in 1914 and replaced in 1996), the Portage Dam and the Big Chaudière Dam.

In the 1980s, Chief Marty Restoule questioned how to use these existing dam structures to generate power for the Dokis Nation. With a great love for the River, Dokis People embraced the values of protecting nature, while ensuring paths to continue their ways of life through repurposing existing infrastructure.

Current Conditions of Ownership (legal frameworks, policy, funding)

The financing available at the time of the project conception was limited, especially for First Nations. This motivated the Dokis Nation to establish innovative pathways to seize funding opportunities and go beyond Band Council (Indian Act) fiscal limitations.

The establishment of the Okikendawt Hydro Trust and partnership with Hydromega were two critical aspects in raising capital. While the hydro development is on federal land, the transmission line runs through the community's reserve land.

Two legal conditions have shaped the Okikendawt Project of Dokis Nation: The Indian Act and associated Land Code provisions, and the Robinson Huron Treaty.

While the Robinson Huron Treaty recognizes Dokis as a sovereign nation, there have been limitations to what this allows for in practice. On July 26, 2024, the Supreme Court of Canada issued a unanimous decision ruling that the governments of Ontario and Canada had failed their Robinson Treaty obligations to the Anishinaabe of the Upper Great Lakes. The court ordered the Ontario and federal governments to use a standard of honour when striking future revenue-sharing agreements with the Huron and Superior Anishinaabe.

Dokis First Nation membership voted to opt out of the sections of the Indian Act dealing with land issues and ratified their own land code in 2013. By ratifying their own Land Code, Dokis membership took a bold step to managing their own lands, resources and environment as enabled through the First Nations Land Management Act, which has since been repealed and replaced with a framework agreement, providing for two types of funding. These two types of funding include: developmental funding, which assists with the community approval process, development of the land code and negotiation of the individual agreement; and operational funding for land management activities, which is determined through an operational funding formula set out in the individual agreement.

Dokis First Nation Councillor Gerry Duquette was the Land Code Development Coordinator during the Dokis Land Code ratification process. He spoke about the differences First Nations experienced in pursuing economic development with and without a Land Code. He stated that Dokis spent about $8 million and considerable time in trying to get approvals from governments to develop the hydro project before ratification. After Land Code ratification, Dokis participated in decision making processes which was able to speed up development.

10. Identification and brief analysis of barriers encountered in the design, negotiation and implementation of the co-ownership or benefit-sharing agreement

The Okikendawt Project was envisioned and created at a time where Indigenous clean energy projects, funding and supports were nowhere near the amount that exist now. This meant that the Dokis Nation faced numerous barriers in areas such as financing, approvals, permitting, legislation and construction.

There was no government grant funding for this project; furthermore, it was all commercial. The project team needed to do all the planning, approvals, obtain senior debt and prepare documentation that could cover a boardroom table 12 inches deep. This took time and intention to provide decision makers with enough information for approvals and the project team with enough understanding they were on the right path.

A hydro project requires over 30 approvals and permits many of which are colonially structured documents and requirements. Not only were these consuming processes but they took extra energy to “translate” community knowledge into these systems. Dokis and Hydro Omega were both strong and committed partners willing to work together to push things through.

The Dominion Water Quality Act, which was over a century old, was a large project barrier as the legislation stated that the flow of water could not be changed. This act had never been used for a hydro project therefore it was a very time consuming and costly process to overcome.

An additional barrier to the project getting approved was the fact it was being proposed on “federal land.” Under this legislation, either the Dokis Nation (traditional and rightful land holders) could not move forward with the project or would have to pay the federal government a penalty to utilize the land. To complicate matters further, the Power Purchase Agreement (PPA) that IESO had agreed to with the Dokis Nation had a time clock. In order for Dokis to secure the PPA, which was necessary for the feasibility of the project, they had to decide to move ahead and pay the penalty for using “federal lands.” The Nation went ahead with this decision with the understanding that they would pursue legal action against the government at a later time.

“There was a problem to solve everyday. A new one would come up even before we had solved others. You need a strong and resilient project team to be able to work through everything that gets thrown at you.” ~ Chris Henderson, Project Advisor.

11. Grievance mechanisms and conflict resolution

The partnership agreement signed by Dokis First Nation and Hydromega was one crucial tool in conflict resolution and prevention due to two main considerations.

Firstly, the relationship between both parties was based on trust. Dokis First Nation selected Hydromega for their understanding and respect of the community's values and culture. Trust allowed both parties to be in permanent contact and go through decision-making processes with transparency and effectiveness.

Secondly, the community was invited to actively get involved with the project at every stage. The community involvement ensured the project visions were upheld and prevented potential conflicts that may have arisen due to lack of communication. This resulted in the project going beyond expectations of the community, mainly because the guiding principles that the community defined at the beginning of the project were embedded into the partnership agreement.

The overarching mechanism for conflict resolution processes within the project was and remains to be Chief and Council. All grievances, disputes and conflicts are brought to Chief and Council to ensure fair, transparent and consistent approaches are taken for resolution.

12. Lessons learned

1. Creativity to find feasibility

Dokis Chief and Council took some time to review what didn't work with previous proposals and worked to change that. For example, the feasibility reports suggested that the project was not viable on the site they planned to build so they changed the location. They used the portage dam that was already built and are still utilizing the dams to put the powerhouse there.

2. Community involvement and transparency is key for Indigenous owned renewable energy projects

One of the key drivers of the Okikendawt success was Dokis Chief and Council communicating with band members, getting direction from them and reporting back to them. "At the end of the day, they are the key people that say if the project goes ahead or not" (Chief Denise Restoule in an interview with NIWEE, 2014).

Dokis ratified the Okikendawt project by an overwhelming majority of 97%. To do this, they established a Dokis First Nation "Community Ratification Process" specific to the Okikendawt Hydro Project in 2011. This process involved a Band Council Resolution

process to appoint the Ratification Officer, confirm the initial list of eligible voters, and order that the Ratification Vote should be held.

The Dokis staff sent multiple packages of information to the eligible voters, including the Notice of Vote, a registration card with a prepaid return envelope, and a summary of the Hydro project.

During the project there was zero unemployment within the community and the unemployment rates remain very low today due to the intentional community involvement within the project.

3. Improving Chief and Council negotiation skills

Learn to negotiate and invest in training supports for community members and leaders. Approval of the council to hire an advisor to explain the project to the community in accessible ways and build up their capacities was important so the community would clearly understand the stages and impacts of the project.

4. Nourishing good relations with private companies and financial institutions

A good relationship with financial institutions is crucial for an energy project's success. It’s important to negotiate for future opportunities, not only for the present. Also, account for and work to obtain extra funds to be able to address contingencies accordingly.

5. Prioritize community's long-term vision for benefits

The Dokis Trust has ensured that the gains from the project cover certain areas crucial for the community: health, education, infrastructure, economic and community development. The Dokis Trust was a mechanism for long-term economic sustainability. “Nobody is getting a check at the end of the day (...) it’s going to come all back into the community. It’s for the long run. It’s all for the future generations, not for the now” (Chief Denise Restoule in an interview with NIWEE, 2014).

13. Recommendations

This case study is one of hundreds of examples of Indigenous-led clean energy projects that have actualized just, impactful and sustainable outcomes.

The Okikendawt Project underscores the importance and necessity of having community-led project work, if the community wants to be a part of the process, to achieve broader community goals and values. Some recommendations to highlight from this case study include the following:

1. Having a strong and committed energy team is essential for project success. A Project Advisor who is trusted, knowledgeable, and can communicate in the

ways the community and partnership proponent needs, is an important aspect. Additionally, holding a good relationship with the Project Manager from the partner company is necessary to ensure shared accountability and trust. The fortitude of this team leads to a reduction of burden on the overall team members, allows for clear and transparent communication, support for dissemination of information and greater capacity to work through problems.

2. Taking the time to do things in a good way is critical. Put in ongoing effort to engage with the community, spend time on the land, ensure the protection and restoration of lands, habitats and waters, uphold an intersectional and intergenerational approach, and reflect and adapt as needed.

3. Build in capacity-building to the project design, partnership and community benefit agreements. Not only can the community and project team grow their education and skills around clean energy, but there can be intentional programs and support created to train and up-skill local workers for the project.

4. Transparency and ongoing communication are key elements to the advancement and longevity of a project. This should be carried through on community, project, partner and external communication levels.

5. Relationship building and maintenance allows for projects to move smoother. This takes ongoing work and outreach to all of the groups who are or could be impacted by the project. Spending the time on relationship building allows for a more robust support network and interconnections that add to the project reach of impacts.

6. Creative and blended financing models are often needed for community-led energy projects. It is recommended that the project team explores all avenues of funding and comes together to configure different strategies to stack it.

7. Policy, regulations and legislation can pose barriers and/or pathways for clean energy projects. Understanding these systems during the visioning and pre feasibility stages of a project will allow for easier navigation throughout. That being said, there are always unexpected challenges that arise within project work so having a strong support system will allow for ebbing and flowing when needed.

14. Bibliography

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15. Annexes

Photo 1: Okikendawt Hydro Project Sculpture made by former Chief Martin Restoule. The Sculpture faces towards the river and the project. Hydroméga Photo Gallery Website. Available at https://hydromega.com/en/portfolio/okikendawt/

Photo 2: Chief Gerry Duquette Jr. blesses the turtle sculpture in Okikendawt Hydro Power. Kelly Anne Smith (2016). Anishinabek News.ca Available at https://anishinabeknews.ca/2016/05/09/dokis-celebrates-opening-ceremony-of-okikendawt-hydro-generating-plant/

Photo 3: Overview of the Okikendawt Hydro Power. Dokis First Nation Webpage. Available at https://www.dokis.ca/okikendawt-hydro-and-dokis-community-trust/