

- Other arrangements

## **6. Responsibilities of Each Party**

### **6.1 Crown**

The Crown is responsible to:

- Respect and uphold the treaty and aboriginal rights enshrined in the Constitution Act, 1982 related to First Nations.
- Consult with and seek accommodate for Aamjiwnaang whenever there is an activity that may or will impact the treaty and aboriginal rights of the community.
- Work with Aamjiwnaang on a government-to-government basis.
- Uphold the honour of the Crown.
- Consider and give reasonable consideration to Aamjiwnaang rights and interests.

### **6.2 Proponent(s)**

The Proponent is responsible to:

- Recognize that Aamjiwnaang is a level of government that seeks to uphold the treaty and aboriginal rights held by Aamjiwnaang community members.
- Ensure that good faith consultation and flexibility guide relations with the Aamjiwnaang community with an aim to seeking mutually beneficial solutions.
- Recognize that an activity cannot be permitted within Aamjiwnaang's traditional territory without consultation and accommodation with Aamjiwnaang.
- Recognize that the duty to consult rests with the crown and that any decision or agreement reached must ultimately be made on a government to government basis.
- Provide contact persons and all information in a timely manner to ensure that good communication is the cornerstone of effective and transparent consultation.
- Provide adequate details and information about the project and any associated timelines or project schedules.

### **6.3 Aamjiwnaang**

Aamjiwnaang is responsible to:

- Provide information to Proponents and the Crown when asked related to the Aboriginal Rights and Treaty Rights asserted on or near the activity under discussion.
- Provide contact person(s) for whom inquiries could be made regarding the status and execution of the consultation process of Aamjiwnaang.
- Represent the views of community members at all times.

- Make a reasonable effort to provide Aamjiwnaang members with adequate notice of all major projects and time allowances for comments.
- Monitor compliance by all parties of the consultation and accommodation process.
- Operate in good faith and with a desire to seek mutually beneficial outcomes wherever possible.
- Provide information and guidance in order to ensure that activities are undertaken with consideration of the land-use principles and potential impact on sites of cultural, spiritual, or heritage interest.

## **7. Funding and Capacity to meet Consultation Needs:**

The Crown is responsible for providing funding and capacity to enable First Nations and Proponents to hold meaningful discussions about activities and for both parties to understand the issues at stake. This funding is critical for the consultation process in order to proceed without delays.

Proponents must recognize that the Aamjiwnaang First Nation often does not have the internal capacity or resources necessary to meet all consultation goals without outside funding. Proponents must recognize that Aamjiwnaang does not receive adequate resources to undertake all consultation requests received. Proponents may be asked to provide capacity for various portions of the consultation process.

Consultation needs are often extensive, including:

- Hiring Aamjiwnaang members to review and meet with proponents.
- Hiring outside experts or staff to provide critical analysis.
- Completion of third-party reviews of Environmental Assessment documents or Legal agreements.
- Travel, accommodation, and other honoraria.
- Administrative costs.
- Other costs.

The necessity of consultation and accommodation and the lack of capacity of Aamjiwnaang requires proponents to meet many of the capacity and consultation costs associated with the process to ensure the meeting of deadlines and deliverables in a timely manner. Costs may also rise or decrease depending on the size, scope, and community involvement necessary to hold adequate and good faith consultations. Proposed budgets will be developed and shared with the proponent throughout the process.

## 8. General Consultation and Accommodation Steps

The following outlines the general process of consulting and accommodating Aamjiwnaang.

**1. Initial Contact:** Notice of a proposed project or decision is made to Aamjiwnaang. Any notice must be submitted to the Chief, the Council, and the Health and Environment Committee. Proponents must submit adequate information and details about the proposed activity including:

1. The appropriate contact person and his or her contact information
2. Reference maps of the proposed project site or area
3. Information about the activity and potential impacts in plain language format, including potential impact on resources and land
4. Information on the anticipated economic impact on Aamjiwnaang and on surrounding communities
5. The timeframe or activity schedule with critical dates identified
6. Information about the potential impacts on treaty or aboriginal rights

**2. Information Sharing:** Following an internal review, a response will be sent to the proponent, indicating the next steps and the appropriate contact person at Aamjiwnaang. This will likely take one of three forms:

1. More information is required from the proponent or the Crown to adequately assess the proposal
2. At this time Aamjiwnaang is not interested in entering into a full consultation process, however the proponent should continue to inform Aamjiwnaang throughout the process, especially if there are any changes in scope or expected impact.
3. Aamjiwnaang is considering entering into a full consultation process and requires more information and capacity.

**3. Pre-Consultation:** If the response is to consider entering a full consultation process, the Proponent will be asked to provide more information and attend meetings. Details of the process, budget, and information required will be discussed. This stage in the process will lead to one of three responses

1. More information is required from the proponent or the Crown to determine whether there are potential or real impacts on constitutional rights or title issues.
2. At this time Aamjiwnaang is not interested in entering into a full consultation process, however the proponent should continue to

inform Aamjiwnaang throughout the process, especially if there are any changes in scope or expected impact.

3. Aamjiwnaang requires the proponent or Crown to enter a full consultation process.

4. **Consultation:** If the response following pre-consultation is 3, the proponent may be asked to sign a consultation agreement or memorandum of understanding. This agreement will identify the process and requirements to complete the consultation and accommodation process, and may include:

1. A request for more information, including plain language summaries
2. A request to participate in meetings with Chief and Council, the Health and Environment Committee, the community as a whole, or other groups as required.
3. A request for capacity to undertake the necessary review of the proposal, including expert legal, technical, or other advice
4. A request to undertake more studies, or to expand on existing studies.

Following the consultation process, an internal analysis of the potential or real impacts will be undertaken. The results of this analysis will determine whether there is a need to progress to the next step, accommodation and mitigation.

5. **Accommodation and Mitigation:** Following the further studies and analysis undertaken in step 4, Aamjiwnaang will negotiate with the proponent or Crown to determine the requirement to develop mitigation strategies or accommodations for the potential or real impacts.
6. **Reconciliation:** Following the end of the consultation process, Aamjiwnaang will provide a response to the Crown and proponent indicating that the consultation process has been completed, and whether the interests and rights of Aamjiwnaang have been accommodated. The response may include agreeing to the proposal as described, agreeing to the proposal with conditions and accommodations, agreeing to abandon or postpone the proposed project, or no agreement.

## 9. Dispute Resolution

In order to avoid resorting to the court system, if at any point throughout the consultation process the parties feel that an agreement cannot be reached they may opt to pursue a dispute resolution process.

Any dispute resolution process must be:

- conducted in a manner where Aamjiwnaang has equal decision making power;
- conducted in an impartial and mutually acceptable manner; and
- conducted in a timely manner.

The process of consultation shall cease for the duration of a dispute resolution process.

The Crown, Aamjiwnaang, and the Proponent must be parties to any dispute resolution process.

If the parties required in a dispute resolution by subsection 15.4 deem it appropriate they may agree to grant standing to any Aamjiwnaang Member or party in a dispute resolution.

A third party may receive standing in a dispute resolution.

A dispute resolution process may be sought where the end result of the consultation process is 'no agreement.'

## **10. Existing Activities Affecting and Impacting Aamjiwnaang**

The Crown must work with Aamjiwnaang to review past decisions about activities undertaken in Aamjiwnaang's traditional territory and reserve lands that were made without honourable consultation and accommodation and continue to affect and impact Aamjiwnaang in the present.

The Crown or Third Parties must inform Aamjiwnaang about existing activities undertaken by the proponent or Crown in the traditional territory or reserve lands of Aamjiwnaang when proposing any new activities or changes to existing uses.

## **11. Review and Amendment**

Aamjiwnaang shall review this policy regularly on at least an annual basis.

Ongoing consultations are not affected by this policy that began before the signing date unless agreed upon by all parties.

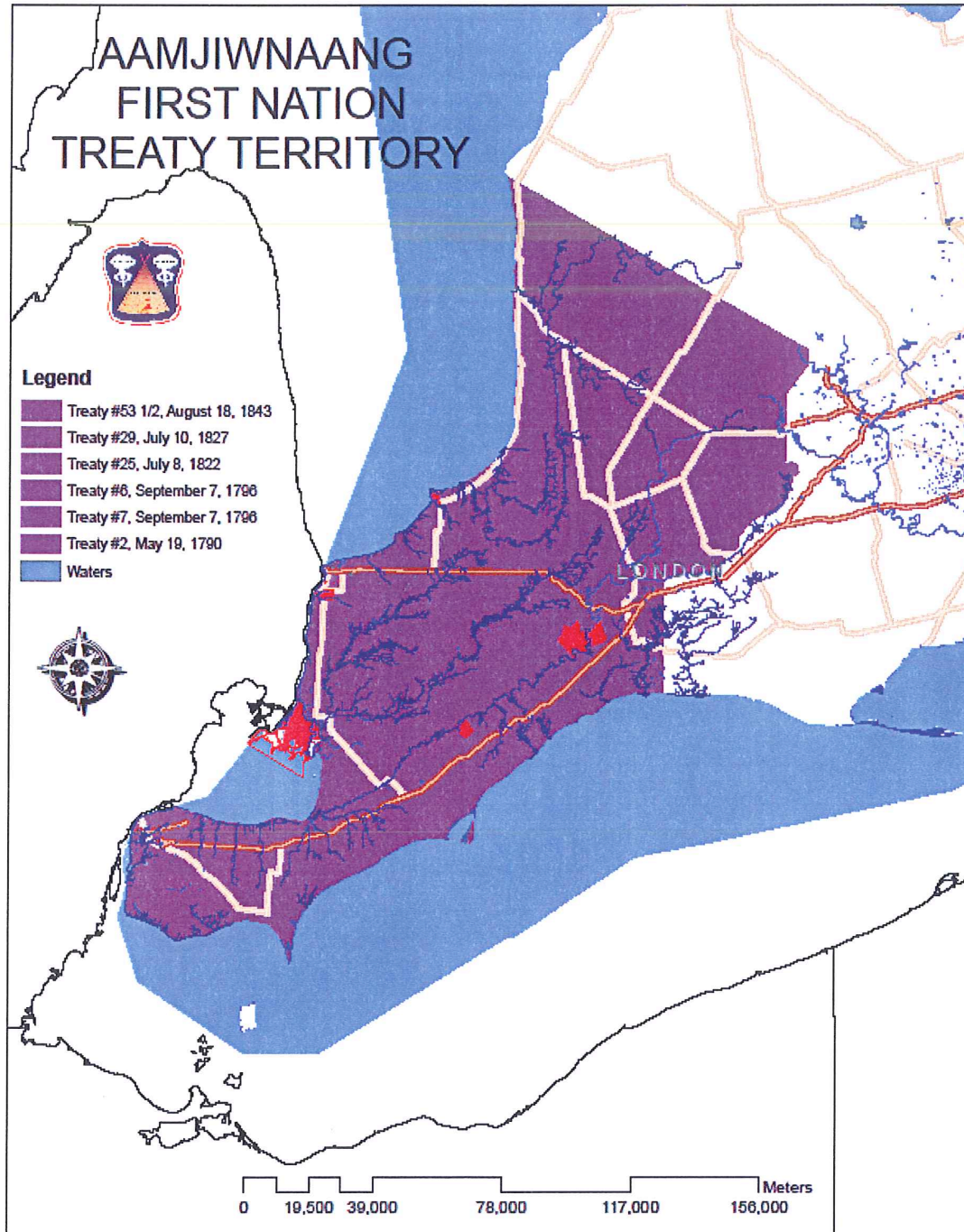
This agreement was approved on June 22, 2010 . The First Nation reserves the right to establish new procedures, fees, or consultation measures at any time.

# AAMJIWNAANG FIRST NATION TREATY TERRITORY



## Legend

- Treaty #53 1/2, August 18, 1843
- Treaty #29, July 10, 1827
- Treaty #25, July 8, 1822
- Treaty #6, September 7, 1796
- Treaty #7, September 7, 1796
- Treaty #2, May 19, 1790
- Waters





Appendix F.2  
Six Nations Elected Council

**Appendixes**

## Six Nations Consultation Policy



# **Six Nations of the Grand River Land Use Consultation & Accommodation Policy**

## **A Policy for Obtaining Free, Prior, and Informed Consent from Six Nations**

### **1. Preamble**

Six Nations of the Grand River is the largest First Nation by population in Canada. The current territory spans 46 500 acres and is bordered by the Mississaugas of the New Credit First Nation and the counties of Norfolk, Brant, and Haldimand. This territory represents only 4.8% of the 950,000 acres of the Haldimand Tract lands that were granted to Six Nations by the Haldimand Proclamation in 1784.

As the official governing body of the territory and working with all Six Nations Community Members, Six Nations Elected Council (SNEC) on behalf of the people of Six Nations of the Grand River has interests in and a duty to protect land within the Haldimand Tract. These interests include unsurrendered lands; conditionally surrendered lands which are subject to unfulfilled conditions; and the Grand River including the river bed. Additionally Council asserts a responsibility to protect the land, air, and water within the wider area specified by the 1701 Fort Albany/Nanfan Treaty. By 1995, Six Nations has filed with the Federal Crown, 29 specific claims with more to be researched. At this time, the Federal Crown is typically taking between 10-20 years to review and settle specific claims. However, in 1995 when Six Nations commenced a court action against the Crown requesting an accounting of all the real and personal property that Six Nations should have had from the Haldimand Tract, the Government of Canada ceased any attempts to settle the claims submitted under the Specific Claims Policy. The Crown's failure to settle these claims has resulted in land disputes that harm relations and waste both money and resources. This failure has resulted in frustration for developers, municipalities, communities, as well as the people of Six Nations.

### **2. Policy Statement**

Six Nations Elected Council (SNEC) requires that the Crown, Proponents and municipalities consult with SNEC in good faith in order to obtain its free and informed consent on behalf of Six Nations of the Grand River prior to SNEC approval of any project potentially affecting Six Nations' Interests. SNEC expects that effective mechanisms shall be provided by the Crown and/or Proponent for just and fair redress for any significant development activities; and all parties shall take appropriate measures to mitigate adverse environmental, economic, social, cultural or spiritual impacts. SNEC supports development that benefits the people of Six Nations and is conducted in a manner that is cognisant and respectful of the water, air, land, rights and interests of the people of Six Nations. SNEC fully expects all Proponents, municipalities and the Crown to respect this policy.

### **3. Guiding Principles**

The following principles shall guide all consultation and accommodation endeavours.



- 3.1 The process of consultation and accommodation must be guided by the principles established by the United Nations Declaration on the Rights of Indigenous Peoples. At a minimum this must include:
  - (i) a lack of any and all coercion including, but not limited to, financial and time constraints;
  - (ii) commencing consultation at the onset of a project, prior to decisions being made; and
  - (iii) full disclosure including, but not limited to, detailed reports on the project and the property; details of all federal, provincial, and municipal fees and taxes related to the property; and information as to the purchase price of the property.
- 3.2 The decision-making process must be proactive, holistic, and strategic in scope that works toward joint planning approaches. Decisions should be made by consensus wherever possible.
- 3.3 The process shall have an ongoing government-to-government relationship based on the recognition of Six Nations inherent rights, treaty rights, and title. Six Nations must have a formal role in all decisions influencing and impacting the territory at all levels reasonably necessary to protect the rights and interests of Six Nations. SNEC must not be just considered part of a larger Ontario community who might be consulted.
- 3.4 The process shall have respect for the sacred bonds between Six Nations and the land, through long term agreements that provide measures to protect the land and resources that Six Nations relies on to sustain its culture, Community, and economy.
- 3.5 There shall be available financial resources for Six Nation's full and effective participation in all aspects of the consultation and accommodation process.
- 3.6 There must be a willingness to provide accommodation for the reasonable concerns of Six Nations prior to the commencement of the project.
- 3.7 There must be a willingness to engage in a jointly accepted dispute resolution process in the event an agreement cannot be reached.
- 3.8 There must be a commitment to deal with each development on an individual and flexible basis. The controlling question in all situations must be what is required to maintain the honour of the Crown and to effect reconciliation between the Crown and Six Nations peoples with respect to the interests at stake.

#### **4. Application**

- 4.1 This policy and related procedures apply to any and all Federal, Provincial and Municipal land use policies or regulations; all land use development projects within the Haldimand Tract; and any proposed land projects outside of the Haldimand Tract that may reasonably be seen to affect the rights and interests of Six Nations as outlined in the Policy Statement section above.
- 4.2 This policy does not apply to land use projects proposed by Members of Six Nations within the Six Nations territory.

#### **5. Enforcement**

- 5.1 If a Proponent or the Crown fails to abide by this policy SNEC may take one or more of the following actions:
  - (i) legal action;
  - (ii) publication of projects that are not in compliance with the policy; and
  - (iii) any other action deemed reasonable.

#### **6. Definitions**

- 6.1 Accommodation – an amicable agreement achieved by consultation between two or more parties to reconcile Six Nations concerns and to avoid irreparable harm or to minimize the effects of infringement by seeking compromise in an attempt to harmonize any conflicting interests. Accommodation may include, but is not limited to:
  - (i) Partnerships;
  - (ii) joint ventures;

- (iii) revenue sharing;
  - (iv) employment and educational opportunities; and
  - (v) other arrangements that benefit the Six Nations Community.
- 6.2 Consultation – a deliberation, in good faith, on a matter involving two or more parties, having concern for and consideration of Six Nations’ wishes in planning and acting; with a mutual goal of arriving at an agreeable decision prior to any undertaking by either party.
- 6.3 Haldimand Tract – the land six miles on either side of the Grand River from its source to Lake Erie granted to Six Nations by the Haldimand Proclamation of October 25, 1784
- 6.4 Major projects – Projects that SNEC believes have a reasonable potential to cause environmental damage, result in non-compensable damage, or projects on lands to which Six Nations has a strong *prima facie* case for recognition or restoration of beneficial title. These projects may include, but are not limited to:
- (i) Some estate residential developments;
  - (ii) large residential developments;
  - (iii) commercial and industrial developments;
  - (iv) changes to Municipal or Provincial land use policies or plans;
  - (v) major transportation projects;
  - (vi) projects that border and/or cross the Grand River;
  - (vii) aggregate resource projects
  - (viii) energy, electric and water projects, and associated transmission or transportation;
  - (ix) waste management facilities;
  - (x) projects deemed Special Projects by SNEC. (*amended by LAR#8–02/25/2010*)
- 6.5 Minor projects – Projects that SNEC believes present very little potential for negative effects on the environment, cultural, social and economic damage, or infringement on Six Nations’ Interests, and Treaty rights. These projects may include, but are not limited to:
- (i) severances;
  - (ii) variances;
  - (iii) lot line adjustments;
  - (iv) garden suites;
  - (v) some estate residential developments; and
  - (vi) the majority of notices outside of the Haldimand Tract not deemed to be Special Projects. (*amended by LAR#8–02/25/2010*)
- 6.6 Proponent – A person including corporations, which may include the Crown, who proposes a minor or major project to be implemented that may affect Six Nations’ Interests.
- 6.7 SNEC – Six Nations Elected Council including its authorized agents and employees.
- 6.8 Special Projects – Projects of a significant size or importance that have a reasonable potential to affect Six Nations Interests or infringe on Six Nations rights. (*amended by LAR#8–02/25/2010*)
- 6.9 Six Nations Interests – SNEC asserts their interest in the following lands:
- (i) Unsurrendered lands within the Haldimand Tract;
  - (ii) Conditionally surrendered lands which are subject to unfulfilled conditions;
  - (iii) The Grand River including the river bed; and
  - (iv) The 1701 Fort Albany/Nanfan Treaty territory.
- 6.10 Six Nations Land Use Consultation Team – A panel delegated by SNEC, as per the *Six Nations Land Use Consultation Team Terms of Reference*, to carry out the process of consultation and accommodation on behalf of SNEC.
- 6.11 The Crown – Her Majesty in right of Canada and Her Majesty in right of Ontario and their respective governments and agencies.
- 6.12 Third Parties – A person; other than the Crown, SNEC, or the Proponent; who is either directly or indirectly affected by a project.

## **7. Non-Derogation**

- 7.1 Nothing in this policy, pursuant to section 25 of the Charter of Rights and Freedoms, shall be construed so as to abrogate or derogate from the protection provided for Six Nations' existing Aboriginal or Treaty rights as recognized by section 35 of the *Constitution Act* 1982, the Royal Proclamation of October 7, 1763, and any rights or freedoms that now exist by way of land claims agreements or may be so acquired.
- 7.2 Nothing in this policy shall be construed as to affect the Aboriginal or Treaty rights, as recognized by section 35 of the *Constitution Act*, 1982, of any other First Nation.

## **8. Responsibilities of the Crown**

- 8.1 The Crown is responsible to:
- (i) operate in good faith;
  - (ii) uphold the honour of the Crown;
  - (iii) accommodate Six Nations concerns up to the point of undue hardship where Six Nations rights and interests have been asserted but not necessarily proven;
  - (iv) keep abreast of the status of the consultation process throughout and contribute in a meaningful way when necessary;
  - (v) participate in consensus decision making;
  - (vi) give reasonable consideration to Six Nations' rights and interests;
  - (vii) ensure the consultation process is adequately and securely funded; and
  - (viii) conduct consultation in the most expeditious manner possible consistent with SNEC internal policies and processes.

## **9. Responsibilities of SNEC**

- 9.1 SNEC is responsible to:
- (i) operate in good faith;
  - (ii) represent the concerns, values, and opinions of all Six Nations Community Members;
  - (iii) make a reasonable effort to provide all Six Nations Community Members with adequate notice of all major projects;
  - (iv) make a reasonable effort to provide all Six Nations Community Members with an opportunity to comment on major projects;
  - (v) promote and encourage the utilization of this consultation and accommodation process;
  - (vi) lobby for the necessary resources to operate the consultation and accommodation process; and
  - (vii) monitor compliance, by all parties, with the consultation and accommodation process.

## **10. Responsibilities of Proponents**

- 10.1 Proponents are responsible to:
- (i) operate in good faith;
  - (ii) notify SNEC at the onset of the project;
  - (iii) adhere to the consultation and accommodation process; and
  - (iv) disclose, in a timely manner, all information required by SNEC including but not limited to:
    - (a) a detailed description of the project;
    - (b) a description of the property;
    - (c) the purchase price of the property; and
    - (d) all taxes, including land transfer, paid on the property.

## **11. Overview of the Early Consultation Process**

- 11.1 This overview shall not be interpreted to be exhaustive of the process for consulting with Six Nations. For greater clarity please reference the SNEC document, "*Six Nations of the Grand River Land Use Consultation and Accommodation Procedure Manual.*"
- 11.2 Prior to the onset of the project the Proponent shall notify SNEC, in writing, of their intentions and shall provide SNEC with detailed descriptions of the proposed development.
- 11.3 Contact between SNEC and a Proponent may be initiated at this time during informal meetings and/or other forms of communication. This may be interpreted as a sign of good faith and honourable intention however; this initial communication shall not be considered to fulfill the duty to consult.
- 11.4 Following receipt of notice as described in 11.2, SNEC shall give notice in conjunction with the Proponent to the Crown requiring it to consult with Six Nations.
- 11.5 The Proponent shall submit, in a timely manner, any studies, plans, environmental assessments, reports, property descriptions, taxation information, or other related documentation reasonable in the circumstances and relevant to the project that may be requested by SNEC.
- 11.6 SNEC shall maintain detailed records in order to provide, in writing, to the Crown indication of the financial/human resources utilized to perform a preliminary review of a project.
- 11.7 Following the preliminary review SNEC will provide the Crown and the Proponent with:
  - (i) any preliminary concerns or objections from Six Nations; and
  - (ii) notification as to whether the project is being considered as a major or minor project.

## **12. Minor Projects**

- 12.1 If a project is considered minor the Proponent shall submit all documentation requested by SNEC to ensure that SNEC is fully informed on the land being used and the project itself.
- 12.2 SNEC reserves the right to request regular updates on specific aspects of minor projects.
- 12.3 SNEC will notify the Crown and provide the Proponent with a letter indicating the satisfactory fulfillment of consultation when the Proponent has complied with all reasonable requests of SNEC.

## **13. Major Projects**

SNEC recognizes that not all major projects present equal levels of risk to the interests or Treaty rights of the Six Nations Community. The following represents an overview of how SNEC is prepared to address major projects. SNEC reserves the right to deal with each project on an individual basis within this framework.

- 13.1 If a project is considered major, SNEC shall publicize the location and nature of the proposed project.
- 13.2 SNEC will provide the Crown and the Proponent with any concerns, issues or objections. SNEC shall allow an adequate period of time for the Proponent and the Crown to respond to the identified concerns, issues and objections.
- 13.3 When SNEC has acquired all relevant information concerning the proposed project and notified the Crown and Proponent of any concerns or objections, SNEC shall make a reasonable attempt to inform all Six Nations Community Members.
- 13.4 SNEC shall allow adequate time for all Six Nations Community Members to submit objections or support for the project. SNEC shall give all reasonable submissions consideration in drafting a response to the Proponent.
- 13.5 If SNEC decides to consult on the project a Six Nations Council Resolution shall be passed to that effect. This resolution shall require SNEC to engage in meaningful dialogue by way of negotiation and mediation with the Crown and Proponent, to attempt to resolve any identified issues, concerns and objections.

13.6 If SNEC decides not to consult on the project a Letter of Objection shall be furnished to the Crown and to the Proponent.

#### **14. Overview of Accommodation Process**

14.1 Any party that wishes to fulfill the duty to consult with Six Nations shall not be considered to have fulfilled that duty until the concerns of Six Nations Land Use Consultation Team and the Six Nations Community have been heard and any reasonable concerns satisfactorily addressed.

14.2 After the Six Nations Land Use Consultation Team and Six Nations Community have been provided with the opportunity to submit comments regarding the project, SNEC shall compile a Report of Concerns detailing the concerns identified throughout the process, as well as recommendations for how to accommodate those concerns. SNEC will then submit the report to the Crown and the Proponent. This report will be made available to the public.

14.3 The Proponent and the Crown may opt to agree with the concerns and recommendations suggested in the Report of Concerns.

14.4 If the Report of Concerns is not agreed to by the Proponent or the Crown a detailed, written response to the Report of Concerns and alternative means of accommodation shall be furnished to SNEC, in a timely manner, by the disagreeing party.

14.5 Upon receipt of any response from the Proponent or the Crown, SNEC and the Proponent shall attempt to reach a mutually acceptable agreement through a process of conciliation.

14.6 If a mutually acceptable agreement is obtained by the parties, SNEC shall furnish a letter to the Proponent recognizing the project and indicating that the duty to consult and accommodate has been fulfilled.

14.7 If a mutually acceptable agreement is no longer reasonably attainable SNEC shall notify the Crown of its desire to commence a further negotiation process.

14.8 Negotiations shall be carried out in a mutually agreeable, impartial manner. The structure, procedure, timing, location and parties shall be agreed to by the Crown and SNEC prior to the negotiation process being undertaken.

#### **15. Dispute Resolution**

15.1 In order to avoid resorting to the court system, if at any point throughout the consultation process the parties feel that an agreement cannot be reached they may opt to pursue a dispute resolution process.

15.2 Any dispute resolution process must be:

- (i) conducted in a manner where Six Nations has equal decision making power;
- (ii) conducted in an impartial and mutually acceptable manner; and
- (iii) conducted in a timely manner.

15.3 The process of consultation shall cease for the duration of a dispute resolution process.

15.4 The Crown, SNEC, and the Proponent must be parties to any dispute resolution process.

15.5 If the parties required in a dispute resolution by subsection 15.4 deem it appropriate they may agree to grant standing to any Six Nations Member or party in a dispute resolution.

15.6 A third party may receive standing in a dispute resolution.

15.7 A dispute resolution process may be sought where the end result of the consultation process is 'no agreement.'

#### **16. Review and Amendment**

16.1 SNEC shall review this policy on at least an annual basis.

16.2 Any ongoing consultations shall not be affected by changes to the policy, unless agreed to by all parties.

16.3 SNEC reserves the right to amend or clarify the policy as it considers necessary to reflect its intended application.

## **17. Regulations**

17.1 SNEC reserves the right to establish procedures, regulations and fees, from time to time, under the authority of this policy. This right may be delegated to agents, successors and employees of Six Nations Elected Council.

## **18. Authorization**

18.1 This policy was approved at the General Council meeting held on June 2, 2009 by **SNCR #197-02/06/2009 and #198-02/06/2009** to be effective on June 3, 2009. This policy shall repeal and replace any previous Six Nations Council policies relating to land consultation.

18.2 This policy was amended at the Lands and Resources meeting held on February 25, 2010 under the authority of **LAR#8-02/25/2010**. All occurrences of such amendments have been noted herein and shall be effective immediately.



## **Appendixes**

### Appendix A.3 Walpole Island First Nation

## **Walpole Island First Nation Consultation and Accommodation Protocol**

### **A. Purpose and Application**

1. This Protocol sets out Walpole Island First Nation's (WIFN's) rules, under its laws and its understanding of respectful application of Canadian law, for the process and principles for consultation and accommodation between WIFN, the Crown and Proponents, about any Activity that is proposed to occur in WIFN's Traditional Territory or that might cause an Impact to the Environment or Health therein or WIFN Rights. WIFN expects the Crown and Proponents to respect this Protocol in all such interactions with WIFN.

### **B. Definitions**

1. Definitions:
  - a. **Activity** means any Crown Activity or Proponent Activity.
  - b. **Canada** means the federal government or the federal Crown, her Majesty the Queen in right of Canada.
  - c. **Crown** means either or both of Canada and Ontario, and any component part of each.
  - d. **Crown Activity** means:
    - i. New legislation, regulations, policies, programs and plans that provide authority to or are implemented or to be implemented by the Crown;
    - ii. Changes to legislation, regulations, policies, programs and plans that provide authority to or are implemented or to be implemented by the Crown;
    - iii. Issuance, varying, approval, suspension or cancellation of permits, licenses, authorizations, renewals or anything similar, by the Crown; and
    - iv. Anything else authorized or undertaken by the Crown.
  - e. **Crown Designate** means such person with or appointed by the Crown to be the lead contact on behalf of the Crown for consultation and accommodation with WIFN in respect of any Activity.
  - f. **Day** means a business day and excludes weekends and statutory holidays.
  - g. **Emergency Situation** means a situation that is likely to endanger the life or health of any person, or that is likely to result in an environmental catastrophe.



- h. **Environment** means the components of the earth, and includes:
  - i. land, water and air, including all layers of the atmosphere;
  - ii. all organic and inorganic organisms including flora and fauna and humans;
  - iii. the physical, social, economic, cultural, spiritual and aesthetic conditions and factors that affect the physical or socio-psychological health of WIFN or any of its members;
  - iv. physical and cultural heritage, any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; and
  - v. any part or combination of those things referred to in paragraph (i) to (iv), and the interrelationships between two or more of them.
- i. **Health** means the physical or socio-psychological health of WIFN or any of its members.
- j. **Impact** means any adverse effect that any Activity may cause to the Environment within WIFN's Traditional Territory or the Health of WIFN or any of its members or any WIFN Right.
- k. **Information** means, to the extent permitted to be disclosed in accordance with applicable law:
  - i. Location (including if possible a map of the site of and area of impact of the Activity if applicable), timing, and as a full a description as possible of the Activity;
  - ii. a written draft of the Crown Activity, if applicable;
  - iii. known or potential Impacts as a result of the Activity;
  - iv. the name and contact information for the Crown Designate;
  - v. the name and contact information of the Proponent, if applicable;
  - vi. all information and documents provided by the Proponent to the Crown in respect of the Proponent Activity, if applicable; and
  - vii. any other information that the Crown and/or Proponent considers relevant.
- l. **Notification** means the initial written notice sent to the WIFN Contact by the Crown and/or Proponent, which shall contain as much Information as is in the possession of the Crown and/or Proponent at this stage after reasonable efforts to acquire same.

- m. **Ontario** means the provincial government or Crown or Queen in right of Ontario (“Ontario”).
- n. **Proponent** means the party (which could include the Crown, a corporation, partnership, sole proprietorship, association, organization, person or the like) other than WIFN or a business in which WIFN has majority control or a majority financial interest, that would undertake or is undertaking the Proponent Activity, as the case may be.
- o. **Proponent Activity** means any activity pursuant or incidental to anything authorized or ordered by the Crown, or that the Crown is contemplating authorizing or ordering, and does not include any activity of WIFN or a member of WIFN or a business in which members of WIFN have majority control or a majority financial interest which activity WIFN has authorized.
- p. **Protocol** means the Walpole Island First Nation Consultation and Accommodation Protocol.
- q. **Reserve** means the unceded reserve of WIFN which is Walpole Island Reserve No. 46, which is a reserve as under the *Indian Act* R.S.C. 1985 c. I-5, as amended (the “*Indian Act*”), is referred to in Ojibwe as "Bkejwanong" (where the waters divide), and which forms a large river delta on Lake St. Clair consisting of six islands which are Walpole, St. Anne, Potawatomi, Squirrel, Bassett and Seaway, totaling approximately 24,000 ha./58,000 acres. For the purposes of this Protocol, the Traditional Territory of WIFN does not include the Reserve.
- r. **Traditional Territory** means that territory as described in Schedule “A” hereto.
- s. **Walpole Island First Nation (“WIFN”)** means the aboriginal people within the meaning of section 35 of the *Constitution Act, 1982*, which is a First Nation, and a Band pursuant to the *Indian Act*.
- t. **WIFN Contact** means the person appointed by WIFN to whom Notification is sent and who is mandated to ensure that where applicable WIFN Representative(s) is/are appointed in respect the particular Activity referred to in the Notification.
- u. **WIFN Representative(s)** means the person(s) appointed by WIFN to participate in the consultation and accommodation process about a particular Activity, and such person(s) must have the authority to act on behalf of WIFN in regard to same.
- v. **WIFN Rights** means any of WIFN’s or its members’ aboriginal or treaty rights or the ability to exercise such rights, or asserted aboriginal or treaty rights (where there is prima facie merit to that asserted right).

- w. **WIFN Sustainability** means the ability of WIFN to survive and thrive including through a healthy Environment, through good Health of WIFN and its members, and through respect for and honouring of WIFN Rights.

### **C. Legal Status**

2. No WIFN Right may be abrogated or derogated from through operation of this Protocol other than by proper legal authority of WIFN.
3. Nothing in this Protocol may be construed to limit any consultation or accommodation obligations owed to WIFN by the Crown or any Proponent.
4. Notwithstanding anything in this Protocol, WIFN retains the right to challenge, by way of judicial review or any other legal or other process, any Activity.

### **D. Context and General Principles to Guide Consultation and Accommodation**

5. WIFN is part of the Ojibwe, Potawatomi and Odawa people who together comprise a political and social compact known as the Three Fires Confederacy.
6. The Anishnabeg of WIFN have lived in their Traditional Territory since time immemorial, practicing their ways and living according to their laws and culture. They are a self-defined people.
7. WIFN continues to assert (see Ontario Superior Court of Justice court file no. 00-CV-189329) and exercise aboriginal title and aboriginal rights to and in all parts of its Reserve, and to those parts of its Traditional Territory to which it has not been a party to a treaty, including lands under water in Canadian portions of Lake Erie, Lake Huron, Lake St. Clair, the St. Clair River and the Detroit River (see map attached as Schedule A for parts of Traditional Territory in which WIFN claims Aboriginal title). In all other parts of its Traditional Territory, WIFN maintains treaty rights and maintains aboriginal rights to the extent not explicitly surrendered in the treaty.
8. In addition to aboriginal title, WIFN's rights in its Reserve and Traditional Territory include rights to hunt, fish and trap, to harvest plants for food and medicine, to protect and honour burial sites and other sacred and culturally significant sites, to sustain and strengthen its spiritual and cultural connection to the land, to protect the Environment that supports its survival, to govern itself, and to participate in all governance and operational decisions about how the land and resources will be managed, used and protected.
9. WIFN's laws require WIFN to preserve and even enhance a mutually respectful relationship with the Environment, to co-exist with Mother Earth and protect this relationship. WIFN under its laws has the responsibility to care for its Traditional Territory for future generations, to preserve and protect wildlife, lands, waters, air and resources. WIFN relies on the health of the Environment in its Traditional Territory for its survival. The health of the lands and waters is essential to the

continued existence of WIFN as a people and it and its members' Health, its culture, laws, livelihood, and economy.

10. WIFN is recognized as a respected and principled steward of the Environment. WIFN's input and perspective in any consultation and accommodation process will likely include the use of traditional ecological and cultural knowledge alongside knowledge from western scientific and technical sources.
11. All decisions about any Activity that might cause an Impact must be made carefully and in the best interests of WIFN Sustainability. WIFN has suffered significant adverse effects from development, use and pollution of its Traditional Territory (WIFN's Reserve and main residential community is downstream and down-wind from one of the most industrialized parts of North America) and from taking and using of parts of its Traditional Territory including those to which it asserts aboriginal title.
12. WIFN may decide that consideration of cumulative effects must be included in any consultation and accommodation process. Cumulative effects include not only those of the Activity combined with other existing projects or Activities or residual impacts from past activities, but with other planned Activities.
13. It may be necessary for the Crown and/or Proponent to fund cumulative effects analyses, WIFN land use and occupancy studies, and other relevant studies to enable informed decision-making about any Activity.
14. WIFN expects to play a meaningful role in any environmental assessment ("EA") or related process, including, if WIFN requests, to have a role in establishing the scope and terms of reference for such EAs and to appoint a member to any EA panel review, and to review and comment on environmental impacts statements, and any screening, study or like reports, but EAs and any role that WIFN might take in regard to these do not of themselves satisfy the Crown's or any relevant Proponent's duty to consult with and accommodate WIFN.
15. WIFN recognizes the need to identify and develop new and appropriate ways through which aboriginal and non-aboriginal parties may create sustainable development opportunities from the resources found within WIFN's Traditional Territory. WIFN's understanding of what is "sustainable" is informed by WIFN's traditional knowledge and laws. WIFN's laws require WIFN to assess an Activity by anticipating its potential effects at least seven generations into the future.
16. Consultation and accommodation processes must be designed and implemented with flexibility to reflect the nature and importance of the WIFN Right or Health or elements or conditions of the Environment that could be affected by the Activity, and the seriousness of the possible Impact. WIFN and only WIFN might decide in certain circumstances that it does not require consultation and/or accommodation in respect of an Activity, and it may determine the level of consultation and accommodation it considers necessary (minor, medium, major).

17. It takes time to make good decisions that consider all relevant matters, and it takes time to build and maintain good relations, and sufficient time must be provided for consultation with and accommodation of WIFN by the Crown and Proponents.
18. All parties to consultation and accommodation processes are expected to treat each other with respect and act in good faith, in an honest, transparent and open manner.
19. WIFN must be consulted by the Crown and if applicable Proponents from the earliest stages of any contemplated Activity, so that strategic and long-term planning is facilitated, WIFN's input can be taken into account in the consideration of relevant alternatives to such Activity (including the alternative of no activity), and in the design of such Activity. This should be a significant benefit to the planning exercise, and greatly reduce the potential for conflict at later stages.
20. The Crown and if applicable Proponents must always consult with WIFN with the intent, and where required by WIFN by taking all feasible steps, to accommodate WIFN by substantially addressing all of WIFN's legitimate concerns about the Activity.
21. The Crown may delegate aspects of consultation and accommodation to the Proponent so long as the Crown maintains an oversight role over the entire process unless WIFN requests otherwise.
22. Accommodation will generally include:
  - Prevention and remediation of Impacts to the extent feasible (and where WIFN requires as below, by not proceeding with the Activity),
  - mitigation of Impacts to the extent feasible
  - provision of capacity building and other benefits from the Activity to the extent reasonably feasible
  - provision of compensation and related benefits from the Activity to the extent reasonably feasible in general to compensate for Impacts
  - measures to increase WIFN's comfort with or trust in the Activity, including community monitoring, community liaison or oversight committees, a role on Proponent's board, other decision-making roles, etc.
23. The Crown is expected to fund, and/or ensure funding is provided by any relevant Proponent for all the reasonable costs of WIFN to participate in a meaningful and informed way in any consultation and accommodation process. These costs will be estimated in a workplan and budget provided by WIFN. Template versions of a workplan and budget are attached to this Protocol as Schedules B and C, but these are examples only.

24. In respect of accommodation, WIFN generally expects Proponents to enter into a Memorandum of Agreement (“MOA”) or the like in respect of Activities that WIFN expects to result in some, but not significant, Impacts, and to enter into an Impacts Benefits Agreement (“IBA”) or the like when WIFN expects significant Impacts but does not decide to stop the Activity. The Crown is expected to work with WIFN when requested to ensure that Proponents meet these expectations. A template version of possible topics to be included in an MOA and IBA are attached to this Protocol as Schedule D, but this is an example only.
25. WIFN has the right to stop any contemplated Crown or Proponent Activity that would likely have a significant Impact.
26. The Crown must not dispose of or grant to any third party any interest in land that is part of WIFN’s aboriginal title claim area (see Ontario Superior Court of Justice court file no. 00-CV-189329, and Schedule A to this Protocol), without the prior and informed consent of WIFN.

#### **E. Trigger for Consultations**

27. The Crown must consult with and accommodate WIFN and where applicable ensure that the Proponent also consults with and accommodates WIFN, in respect of any Activity, when this duty is triggered.
28. In addition, WIFN expects where possible to engage in consultations and negotiations for accommodation at the strategic-planning level, including in respect of the following:
  - co-management of resources (eg: fisheries, wildlife protection plans, and the like)
  - protection and management of watersheds and ecosystems
  - land use planning for broader areas in the Traditional Territory
29. Consultations with and accommodation of WIFN are triggered when the Crown is contemplating any Crown Activity or is aware of any Proponent Activity that might have an Impact.
30. Unless WIFN otherwise decides, if any Activity has begun or is underway before consultation with WIFN is completed, and such consultation would have been triggered, the Crown and where applicable the Proponent must undertake consultation with and ensure accommodation of WIFN forthwith. WIFN expects the Crown to suspend such Activity where to do so would not cause undue hardship to the Crown or any relevant Proponent, until consultations are completed.

#### **F. Consultation and Accommodation Process**

**31. *Step One: Initial Contact***

- a. The WIFN Contact is the WIFN Consultation Manager or a person standing in for him, or such other person or office as the Band Council from time to time appoints.
- b. All Notifications are to be sent to the WIFN Consultation Manager, with a copy sent to the WIFN Chief. If the WIFN Contact is absent or otherwise unable to fulfill his duties of being the WIFN Contact, and there is no person standing in for him, the Chief shall appoint the WIFN Contact.
- c. The Crown Designate must send Notification normally by email and fax to the WIFN Contact, of the contemplated Activity, at the earliest possible stage.
- d. The Proponent shall also send Notification to the WIFN Contact of its Proponent Activity, but WIFN expects consultation and accommodation processes to be initiated by the Crown and for the Crown to have oversight unless WIFN otherwise requests.
- e. Neither the Crown nor the Proponent are required to send such Notification and engage in the process in this Part, if they are contemplating or taking action to address an Emergency Situation. However, as soon as possible after dealing with the Emergency Situation, the Crown or Proponent must send a Notification or other notice to the WIFN Contact of the action taken to address the Emergency Situation. The Crown and/or Proponent must engage in the process in this Part if such action would have otherwise triggered consultations under this Protocol and it could result in further Impact in the future.
- f. The WIFN Contact will where possible confirm receipt of such Notification to the Crown Designate and if applicable the Proponent, within 3 days of receiving it.
- g. If the Crown Designate and Proponent if applicable do not receive such confirmation within 3 days, they must contact the office of the Chief and/or the office of the Director of Operations, to determine if the Notification was received and who the WIFN Representative(s) is/are.

**32. *Step Two: Determination of Consultation and Accommodation Needs and Appointment of WIFN Representatives if Applicable***

- a. The WIFN Contact will if possible within 3 days of receipt of the Notification, forward to the Band Council or a committee of or a delegate of the Band Council as the Band Council may determine from time to time:
  - the Notification;

- a recommendation as to whether consultation and accommodation is required, and if so, the level of same that is likely to be required (minor, medium or major);
- if consultation and accommodation is recommended, a request to appoint WIFN Representative(s) for this consultation and accommodation process within 10 days or a shorter period of time as the WIFN Contact reasonably determines is necessary;

and subject to s. 32(b), the Band Council or a committee of or a delegate of the Band Council as the case may be, will make the determination as to whether consultation and accommodation is required. If so, it will determine the likely level of same, and will appoint WIFN Representative(s) and inform them of the likely level of same. If no consultation and accommodation is required, it will instruct the WIFN Contact to provide notice to the Crown and if applicable the Proponent that no consultation or accommodation is required.

- b. If no response as above is provided to the WIFN Contact within the requested time, the WIFN Contact will:
  - if he recommended that no consultation or accommodation is required, provide notice to the Crown and if applicable the Proponent that no consultation or accommodation is required;
  - if he recommended that consultation and accommodation is required, appoint the WIFN Representative(s) and inform them of his recommendation as to the level of consultation and accommodation likely to be required (minor, medium or major).
- c. Further steps in this Protocol assume that WIFN has determined that consultation and accommodation are required.

### **33. *Step Three: Preparation of Workplan and Budget***

- a. The WIFN Representative(s) will review the Notification to determine whether other Information is required in order for WIFN to develop a workplan and budget for consultation and accommodation in respect of the Activity (eg: whether WIFN has enough Information to determine what technical studies it might have to commission, what legal input it might require, what community input it might require).
- b. The WIFN Representative(s) will contact the Crown Designate and Proponent if applicable as soon as possible after being appointed, to identify him/herself or themselves, to request other Information that is required if any and to determine when it will be delivered, and to set a target date when a workplan and budget for WIFN's participation in the process will be forwarded by WIFN to the Crown Designate and if applicable the Proponent.



- c. If information is to come in stages over the process, then workplans and budgets may be developed for each stage.
- d. The WIFN Representative(s) will prepare a draft workplan for the process of consultations and negotiations, and a budget for WIFN to participate in a meaningful and informed way in same.
- e. The workplan will generally include:
  - Provision of all required Information to WIFN Representative(s): what information, and when it will be provided.
  - Collection of required information from WIFN: what information (such as nature and extent of the exercise of affected Rights, and how such Rights or the Environment or Health might be Impacted by the Activity), when it will be collected, and then provided to the Crown Designate and if applicable the Proponent.
  - Expert analysis or input (if required): what type(s) (such as environmental experts, archaeologists, anthropologists, forestry experts, etc.); nature of the work (which might include field study, review of Information and other relevant documentation, preparation of a report); when each step in the work will be completed.
  - Legal analysis or input (if required): nature of the work (including assisting WIFN in the consultation and negotiation process, evaluation of Information and other relevant documentation from experts and others as to the implications on WIFN's Rights of the proposed Activity, and preparation of legal memoranda re same); when each step in the work will be completed.
  - Consultation and negotiation meetings: their locations, participants, purposes or goals, and timing.
  - Work to be accomplished between each consultation and negotiation meeting (including collection and provision of information, expert and legal analysis and input).
  - Internal community consultation: what is required (might include community meetings, development and dissemination of material to community members, staff and administrative work); when this work will be completed.
  - Negotiating an MOA and/or IBA or the like with the Proponent (if required).

- Ratification of any MOAs, IBAs or the like by the WIFN Community (if required): community processes, when each step in such processes will be completed.
- f. The budget will generally include:
- Expenses to collect, copy and disseminate information.
  - Expert fees and expenses (if required).
  - Legal fees and expenses (if required).
  - Fees or honoraria and expenses for WIFN Representatives for their work in the consultations and negotiations.
  - Meeting costs (to book room and provide refreshments etc)
  - Internal community consultation costs (booking meeting rooms, refreshments for meetings, creating, copying and disseminating written information packages, administrative and staff work for this).
- g. The WIFN Representative(s) will forward the workplan and budget to the Crown Designate and Proponent if applicable as soon as it is completed, generally within 30 days of receipt of the Notification if the Information it contains is sufficient for this purpose.
- h. WIFN expects the Crown and Proponent if applicable to abide by the workplan and budget submitted by WIFN, and for the Crown to cover the budgeted costs or to ensure that the Proponent covers such costs.
- i. If in the opinion of the Crown and/or Proponent, elements of the workplan or budget are not reasonable, they must send to the WIFN Representative(s) their proposed changes and reasons for same before taking any other steps in the consultation or negotiation process.
- j. WIFN expects the Crown and Proponent if applicable to negotiate the workplan and budget in good faith with WIFN, so all parties may arrive at a mutually agreeable workplan and budget.

#### **34. *Step Four: Follow Workplan and Revise When Necessary***

- a. The parties will follow the workplan to the extent reasonable, and WIFN Representative(s) will revise the workplan (and budget if necessary) if circumstances warrant. In case of revision, relevant parts of step three would be repeated.
- b. Consultations may take many forms, and parties should be flexible and patient as the process progresses.

- c. WIFN often makes decisions with the participation of its members. Workplans may therefore contain provision for internal community consultation. In addition, in some cases there may be need for further consultation with particular families or individuals who might be most affected. The number of meetings and internal consultations will depend on the complexity and significance of the Activity and seriousness of Impacts.
- d. The final phase of the process will often involve the negotiation of an MOA and/or IBA, the terms and conditions of which WIFN will analyse to determine whether or not it wishes the Activity to proceed. The WIFN community will often have to ratify or consent to such agreements. The signing of any such MOA or IBA or the like, or if same is not required, the submission by WIFN to the Crown Designate and Proponent if applicable of a letter or other notice stating WIFN agrees the Activity may proceed, constitutes WIFN's consent to the Activity on whatever terms and conditions are contained in the MOA or IBA or letter or the like.

35. General:

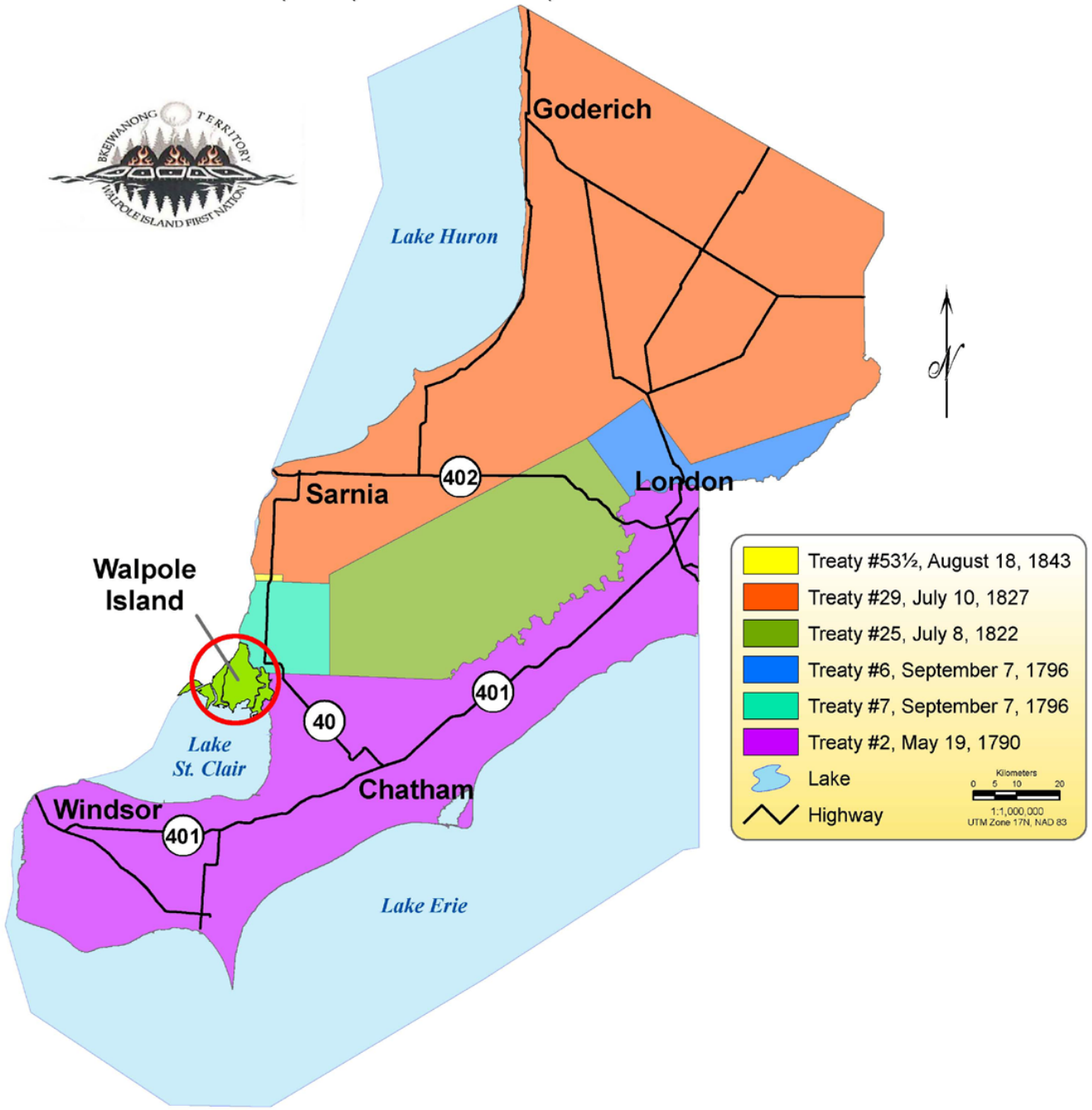
- a. The Crown and Proponent must disclose all relevant Information to WIFN Representatives as it becomes available, throughout the consultation and accommodation process.
- b. WIFN may determine whether it wishes to hold any aspect of consultation and accommodation process with the Crown, the Proponent or both, and expects such parties to respect such decisions if they are reasonable.
- c. Any party to consultation and accommodation processes may involve such experts, lawyers or support persons as are reasonably required.
- d. Generally, notes of and correspondence related to all consultation and accommodation processes are the responsibility of each respective party.
- e. Parties to consultation and accommodation processes may enter into confidentiality agreements and may agree that all discussions and correspondence pertaining to such processes are confidential to the extent allowed by law.
- f. If WIFN requires accommodation through negotiations with the Proponent for an MOA or IBA or the like, the Crown is expected to, when requested by WIFN, assist WIFN to ensure that the Proponent engages in such negotiations pursuant to the portion of the workplan and budget that pertain to same. WIFN expects the Crown to not approve the relevant Activity unless and until agreement is reached between WIFN and the Proponent on the MOA or IBA or the like.
- g. This Protocol and any MOA, IBA or the like that WIFN might enter into, are all without prejudice to WIFN's claim in Ontario Superior Court of Justice

court file no. 00-CV-189329 and any of its other specific claims and land claims.

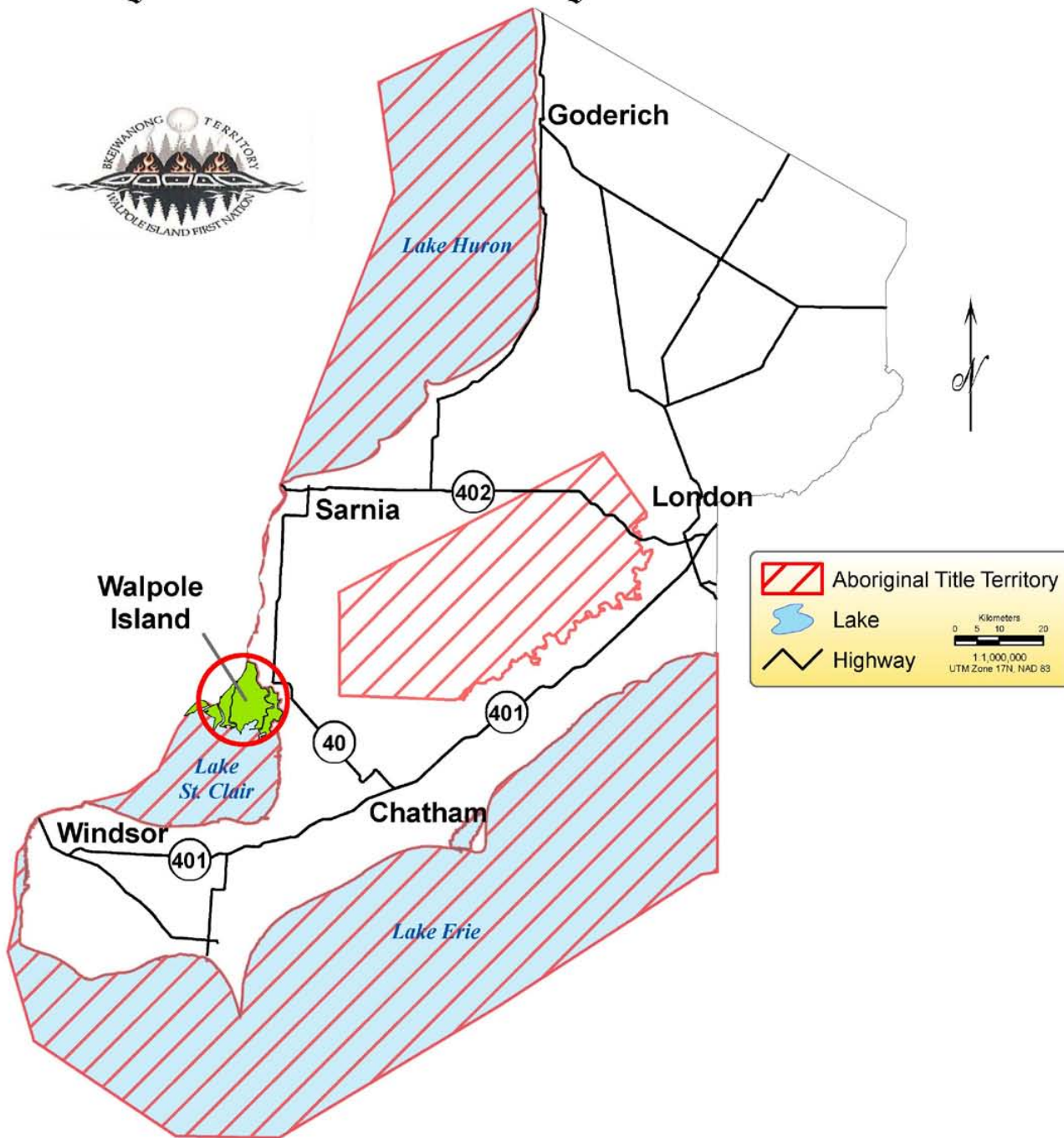
**SCHEDULE A****Walpole Island First Nation's Traditional Territory (in Canada)  
consists of the following lands (see also map versions in this Schedule):**

1. The Canadian portions of the beds of Lake St. Clair, the St. Clair River and the Detroit River.
2. That part of the Canadian portion of Lake Huron south of a line drawn from the northeast corner of the boundary of the 1807 Treaty of Detroit to the northwest corner of the boundary of Treaty #29 of 1827 (approximately the Canadian portion of Lake Huron south of Goderich)
3. That part of the Canadian portion of Lake Erie west of the extrapolation of the eastern boundary of Treaty #2 of 1790 (roughly a line drawn south from London)
4. For greater certainty, any islands encompassed within the lands described above.
5. The area which was the subject of Treaty 25 on July 8, 1822 (which treaty was not signed by WIFN or its predecessors)
6. The geographic Township of Anderdon
7. The lands subject to the following treaties:
  - (a) Treaty #2 (19 May 1790)
  - (b) Treaty #6 (7 September 1796)
  - (c) Treaty #7 (7 September 1796)
  - (d) Treaty #12 (11 September 1800)
  - (e) Treaty #29 (10 July 1827)

# Treaties with the British Crown



# Aboriginal Title Territory



**SCHEDULE B TO WALPOLE ISLAND FIRST NATION  
CONSULTATION AND ACCOMMODATION PROTOCOL**

**Work-Plan for Consultations / Negotiations**

<b>STAGE</b>	<b>TASK</b>	<b>DESCRIPTION / COMMENTS</b>	<b>WHO TO COMPLETE</b>	<b>DATE TO BE COMPLETED</b>	<b>STATUS / DATE ACTUALLY COMPLETED</b>
WORKPLAN & BUDGET	Identification of WIFN needs for participation	WIFN Representatives to work with Crown Designate and Proponent to determine WIFN needs to participate in an informed and meaningful way	WIFN Representatives	20 days after receipt of Notification	
	Provision of further information to WIFN	All further information to be provided by Crown Designate and Proponent to WIFN Representatives	Crown Designate		
	WIFN to prepare draft workplan and budget	WIFN Representatives to review all information to determine technical advisors and internal requirements and draft workplan and budget	WIFN Representatives	30 days after receipt of Notification	
	Agreement on Workplan	Parties to negotiate and agree on workplan and budget	Parties	40 days after receipt of Notification	



CONSULTATION PRE-MEETING 1	Pre- Meeting; Engage Technical Advisors	WIFN to engage technical and legal advisors and experts, provide with agendas, workplan, and terms of engagement (including to interview traditional users to determine potential impacts of Activity, if required)	WIFN Representatives	Prior to First Meeting	
CONSULTATION MEETING 1	Meeting 1	All Parties (or Crown and WIFN if WIFN so requests) to meet to share and review information, raise questions for need for further information, and discuss potential impacts. Deadlines for work and next steps to be determined	All Parties. WIFN Representatives to arrange for meeting.		
CONSULTATION POST MEETING 1	Further questions and answers	Further information shared to respond to questions raised at meeting 1.	All Parties	Within X days of Meeting 1 (and ongoing)	
	Technical reports	WIFN technical advisors and experts undertake technical research and analysis and issue reports. Distribute reports to Crown Designate and Proponent.	WIFN Representatives to oversee and manage	Within X days of Meeting 1	
CONSULTATION MEETING 2	Meeting 2	Discussion of all information shared post meeting 1, and determine any need for further information. Discuss options to ensure that WIFN's concerns are substantially addressed, and measures to ensure this.	All Parties. WIFN Representatives to arrange meeting.		

CONSULTATION POST MEETING 2	Share proposals	Parties to share proposals on ways to address WIFN's concerns, which might include MOA or IBA.	All Parties	X days after meeting 2	
NEGOTIATION	Negotiate MOA or IBA, if applicable	WIFN Representatives, likely with assistance of legal advisor, to prepare draft MOA or IBA and distribute to Proponent and Crown if applicable. Parties to exchange drafts to negotiate MOA or IBA, via email/fax or at in-person meeting(s).	WIFN Representatives	X days after meeting 2	
	Agree on MOA or IBA, if applicable	Parties to negotiation to come to agreement on MOA or IBA terms, possibly with assistance of Crown if WIFN so requests.	All Parties to MOA or IBA	X days after meeting 2	
COMMUNITY CONSULTATION	Meetings in WIFN community	WIFN Representatives to prepare information and present it in community meetings to get input and in some cases the final decision re Activity. Might be more than one meeting required. Crown and Proponent Reps might be requested to attend.	WIFN Representatives		
	Sharing of Community Response	WIFN Representatives prepare and present response re community reaction or decision to Crown and Proponent	WIFN Representatives		

<p>CONSULTATION MEETING 3 3</p>	<p>If required, meeting 3 if outstanding issues</p>	<p>If agreement not reached between parties by this stage, hold another meeting(s) to determine if agreement can be reached and how, and next steps for doing this.</p>	<p>All Parties. WIFN Representatives to arrange for meeting(s)</p>		
<p>CONSULTATION AND NEGOTIATION POST MEETING 3</p>	<p>Agreement reached if possible</p>	<p>Steps required to ratify MOA or IBA, or for WIFN to send letter approving Activity or otherwise for agreement between Crown and WIFN re Activity</p>	<p>All Parties. WIFN Representatives to oversee.</p>		

**SCHEDULE C TO WALPOLE ISLAND FIRST NATION  
CONSULTATION AND ACCOMMODATION PROTOCOL**

**BUDGET**

This Budget may be divided into two parts -- one for Consultation and one for Negotiation – if the Crown pays for Consultation costs and the Proponent pays for costs to negotiate MOA or IBA or the like.

<b>CONSULTATION &amp; NEGOTIATION BUDGET</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>EXPECTED COST</b>
Administrative Expenses	Copying fees, postage, long distance fees, %age overhead for WIFN administration	
WIFN Representative Fees / Per Diems	Salary recovery, fee, or per diem for each WIFN representative (itemize separately)	
WIFN Representative Expenses	Travel and other expenses	
Consultation / Negotiation Meetings	Meeting rooms, refreshments, etc (list for each projected consultation meeting)	
Community Meetings Expenses	Copying and dissemination of material, meeting rooms, refreshments, elder or other honoraria (list for each community meeting)	
Internal Technical Advisor/ Expert Fees	Describe which kinds of WIFN technical advisors/experts required, their deliverables and their fees	
Internal Technical Advisor/Expert Expenses	Travel and other expenses	
Outside Technical Advisor/Expert Fees	Describe which kinds of outside experts or technical advisors required, their deliverables and their fees	
Outside Technical Advisor/Expert Expenses	Travel and other expenses	
Legal Fees	Describe type of work required and fees for consultations	

Legal Expenses	Travel and other expenses	
<b>TOTAL</b>		



## **Appendixes**

### Appendix G Tables of Concordance



## **Appendixes**

### Appendix G.1 Aamjiwnaang First Nation

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Bird/bat studies</li> </ul>	<ul style="list-style-type: none"> <li>Effects to wildlife are assessed in the Natural Heritage Assessment and Environmental Impact Study Report, which was submitted to the Ministry of Natural Resources (MNR).</li> <li>In Ontario, wind turbines present less of a danger to birds than other structures such as buildings or roads. On the basis of bird mortality monitoring results from Ontario wind power projects, the MNR has concluded that wind turbines are not considered to be a concern for most of Ontario's bird populations (MNR, 2011a). The location of turbines, as well as numerous other decisions associated with developing wind projects, is carefully designed by NextEra to minimize any negative effects on wildlife. As part of Ontario's REA process, NextEra is working with experts to assess the potential effects on local wildlife, including birds and bats.</li> <li>As part of the facility siting and pre-construction activities, studies were completed to identify potential issues related to birds and bats in relation to the selected site. The work plans and results are being reviewed by the MNR as part of the approval of the REA application.</li> <li>Biologists collect the following information on birds and bats in relation to the Project through field studies and consultation with government agencies and conservation authorities:             <ul style="list-style-type: none"> <li>Extent of natural features within the Project area, with a focus on Areas of Natural and Scientific Interest, wetlands, woodlands, wildlife habitat and valleylands;</li> <li>Existing records of species in the area, including rare species and species of conservation concern;</li> <li>Wildlife habitats including seasonal concentration areas, specialized wildlife habitats, habitats for species of conservation concern, and potential wildlife movement corridors;</li> <li>Threatened and Endangered species present in the area;</li> <li>Potential effects, mitigation measures, and monitoring requirements for significant natural features and wildlife habitat within the Project area.</li> </ul> </li> <li>Through these efforts, biologists have identified the significant bird and bat habitats present in the Project area. This habitat-based approach appears to be a key factor in preventing negative effects on birds and bats (MNR, 2011a; MNR, 2011b). In addition, biologists assess wetlands within 120 m of the Project Location and determine permitting requirements relating to environmental protection. NextEra avoids or minimizes impacts to wetlands, a common habitat for many species of birds, and other environmentally sensitive areas during siting and layout design of the Project.</li> <li>If potential concerns are identified during the evaluation of significance phase, NextEra often takes corrective actions, such as:             <ul style="list-style-type: none"> <li>Moving proposed turbine locations to avoid significant wildlife habitats or to reduce potential strikes; and</li> <li>Establishing setbacks between turbines and significant habitats.</li> </ul> </li> <li>NextEra has met or exceeded all of the requirements for conducting baseline wildlife, bird and bat studies, as described in O. Reg. 359/09 and set out in guidelines prepared by the MNR.</li> <li>Finally, the Design and Operations Report includes an Environmental Effects Monitoring Plan (EEMP) to monitor potential impacts on bird and bat species during the first three years of commercial operation. The EEMP summarizes potential negative effects; identifies performance objectives with respect to the potential negative effects; describes mitigation measures to achieve the performance objectives; and commits to future monitoring to ensure the mitigation measures</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>



Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Effects on migratory bird paths and Tundra Swans</li> </ul>	<p>meet the performance objectives. NextEra will provide the monitoring results to the MNR.</p> <ul style="list-style-type: none"> <li>Potential effects to migratory birds are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Waterfowl Stopover and Staging Areas that may be used by Tundra Swans annually during spring migration. Where significant habitats for migratory birds are identified, this information, together with information about other constraints, is used to guide the placement of wind turbines. This habitat-based approach appears to be a key factor in preventing negative effects on birds (MNR, 2011a).</li> <li>Scientific studies have found that migrating swans are generally able to avoid wind turbines and that swan mortality resulting from collisions with wind turbines is limited; however turbines may cause swans to avoid stopover and staging areas used during migration (Hötiker, <i>et al.</i>, 2006).</li> <li>Information on species within the Study Areas was conducted as part of the Records Review for the NHA Report and in consultation with the MNR. An initial series of avian surveys was conducted by Golder Associates for the Project Study Area. The Goshen Wind Energy Centre Avian Use Monitoring Report – 2010 (Golder Associates, 2011), describes the results of spring Tundra Swan/waterfowl surveys, winter avian use surveys, spring migration avian use surveys, breeding (summer) avian use surveys and fall migration avian use surveys. It was used in conjunction with Ontario Breeding Bird Atlas (Cadman <i>et al.</i> 2007) data to describe the bird species known to use habitats in the Project Study Area.</li> <li>Additional surveys to identify Candidate Significant Tundra Swan Migratory Stopover and Staging Areas were completed in March 2012.</li> <li>Two Candidate Significant Tundra Swan Migratory Stopover and Staging Areas were determined to be located within 120 m of the Project Location, and as per MNR guidelines, these areas were carried forward to the Environmental Impact Study. Additional spring migration surveys will be completed at these locations in 2013 to collection additional information on Tundra Swan use of the areas. If determined to be significant, mitigation measures and additional post-construction monitoring for disturbance effects will be required at these locations.</li> <li>Post-construction bird mortality studies are required for all wind energy projects in Ontario. Details of the monitoring protocol are provided below.</li> <li>NextEra will develop and implement a monitoring program for bird and bat mortality consistent with <i>Birds and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011a) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011b) which will include: <ul style="list-style-type: none"> <li>Conducting 3-years of post-construction mortality surveys for birds including raptors (such as hawks and owls) and bats;</li> <li>Conducting subsequent monitoring for two years at individual turbines (and unmonitored turbines in close proximity) if significant bird or bat mortality is identified;</li> <li>Conducting effectiveness monitoring at individual turbines for three years where mitigation has been implemented.</li> </ul> </li> <li>The findings of the bird and bat mortality monitoring programs will be reported back to MNR on an annual basis for the first 3 years of operation.</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring plan: Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 2.2.2.4 – Wildlife Habitat (including rare species)</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.8 – Significant Wildlife Habitat</li> <li>Natural Heritage Assessment Report: Appendix A – Avian Use Monitoring Report (Golder Associates, 2011)</li> </ul> <ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring Plan: Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul>

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>• Turbine vibrations affecting earthworms and snakes, particularly snake Species at Risk</li> </ul>	<ul style="list-style-type: none"> <li>• If mortality thresholds set by the Province are exceeded, NextEra proposes the following operational mitigation techniques for birds (which would be applied at times of the year when mortality risks to the affected bird species are particularly high (e.g., migration):               <ul style="list-style-type: none"> <li>▪ Periodic shut-down of select turbines; and,</li> <li>▪ Blade feathering (i.e., reduced operations at certain wind speeds).</li> </ul> </li> <li>• NextEra proposes the following operational mitigation techniques for bats:               <ul style="list-style-type: none"> <li>▪ Changing the wind turbine cut-in speed to 5.5 m/s;</li> <li>▪ Feathering of blades when wind speeds are below 5.5 m/s; and,</li> <li>▪ Co-ordinating turbine shut-down for maintenance with periods of high bat activity and/or mortality.</li> </ul> </li> <li>• The above-mitigation measures would be implemented if deemed necessary by the results of post-construction monitoring and the MNR.</li> <li>• Finally, NextEra will utilize a lighting scheme that will minimize risk to bird or bat collisions, while fulfilling Transport Canada requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring plan: Natural Heritage Resources</li> <li>• Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul>
<ul style="list-style-type: none"> <li>• Turbine vibrations affecting earthworms and snakes, particularly snake Species at Risk</li> </ul>	<ul style="list-style-type: none"> <li>• Infrasound and low frequency vibrations are always present in the environment and are produced from many sources other than wind turbines such as ambient air turbulence, ventilation units, traffic, aircrafts and other machinery (Rogers et al., 2002).</li> <li>• In general, turbines are designed to avoid creating vibration as this would affect long term structural stability. Therefore, it is not anticipated that any vibrations would be transmitted at any appreciable distance that would impact wildlife, including snakes and earthworms.</li> <li>• Potential effects to snakes are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Snake Hibernacula.</li> <li>• One Candidate Snake Hibernaculum was identified within 120 m of the Project Location. Additional surveys will be completed at this location in 2013 to assess potential effects of a proposed access road; however, there are no turbines proposed within 120 m of this location, therefore no negative effects of turbine operation on the Candidate Snake Hibernaculum are expected during the operations phase of the Project.</li> </ul>	<ul style="list-style-type: none"> <li>• Natural Heritage Assessment and Environmental Impact Study Report: Section 5.8 – Significant Wildlife Habitat</li> </ul>
<ul style="list-style-type: none"> <li>• Concerns about effects on nutrient builders</li> </ul>	<ul style="list-style-type: none"> <li>• Due to the sensitive nature of information about the locations of Species at Risk, they are not identified in the Natural Heritage Assessment and Environmental Impact Study Report.</li> <li>• Species at Risk and their habitats potentially occurring within the Study Area are being identified through field investigations, background research and in consultation with the MNR. Four species at risk were observed during field work for the Goshen Wind Energy Project. Potential effects to Species at Risk will be addressed through a Species at Risk Report and submitted to the MNR. This report will also describe mitigation and avoidance measures that will be used to prevent negative effects on Species at Risk. NextEra will work with the MNR to determine if a permit is required under the Endangered Species Act.</li> <li>• An Endangered Species Act permit is required if the proposed works will have an adverse effect on a protected species or its habitat, as determined by the MNR. Any required permits will be obtained from the MNR prior to commencing construction and any required mitigation measures or monitoring commitments will be implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• Natural Heritage Assessment and Environmental Impact Study Report: Section 2.2.2.4 – Wildlife Habitat (Including Rare Species)</li> </ul>
<ul style="list-style-type: none"> <li>• Concerns about effects on nutrient builders</li> </ul>	<ul style="list-style-type: none"> <li>• Clarification required.</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Effects on animal corridors, including deer paths</li> </ul>	<ul style="list-style-type: none"> <li>Potential effects to terrestrial species are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Winter Deer Yards and Deer Migration Corridors, as well as Amphibian Movement Corridors.</li> <li>The MNR has identified a Winter Deer Yard associated with the Hay Swamp Provincially Significant Wetland. Potential effects to these features are assessed in the Environmental Impact Study of the Natural Heritage Assessment.</li> <li>Negative effects to deer are not anticipated as a result of the project and no post-construction monitoring is required. Deer are generally quite adaptable to human disturbances and will move considerable distances between patches of suitable habitat, particularly at night; therefore operational effects on deer movement corridors are not expected. The only anticipated negative effect to deer is possible temporary avoidance from the vicinity of active construction. There is some evidence that similar species including North American Elk, Norwegian Red Deer and Reindeer may temporarily avoid wind farms during construction (just as they would avoid other construction activities), but come back to graze in wind farms during operation (Helldin and Alvares, 2011; Helldin et al. 2012). A study of the effect of wind turbine operation on deer and other game animals found no evidence of different habitat use or distribution in areas with operating wind farms, and that the number of scats and tracks was similar for all distances (10 m to 1,000 m) from turbines (Menzel and Pohlmeyer, 1999). Similarly, studies of the effect of wind turbine operation on domestic reindeer have found no evidence of avoidance or changes in behaviour indicative of fear or stress from noise or visual effects (Flydal et al. 2004). There is some evidence that deer will avoid high traffic roads (Helldin et al. 2012), however access roads associated with the Project are expected to be used very infrequently during operation therefore negative effects on deer are not expected.</li> <li>Amphibian Woodland Breeding Habitats were identified within 120 m of the Project Location. Amphibians are sensitive to road mortality when migrating between breeding ponds and their main home range. Amphibians move mostly at night and, in particular, rainy nights. Mitigation measures will be implemented during construction, including timing restrictions on construction activities near Significant Amphibian Woodland and Wetland Breeding Habitats, to avoid amphibian mortality and damage to breeding habitats. Once construction is complete, traffic is expected to be very light and rarely at night; therefore road mortality is not expected to be significant.</li> </ul>	<ul style="list-style-type: none"> <li>Natural Heritage Assessment and Environment Impact Study Report: Section 2.2.2.4 - Wildlife Habitat (including rare species)</li> </ul>
<ul style="list-style-type: none"> <li>Changes to affected areas should be minimized and restored as close to pre-construction conditions</li> </ul>	<ul style="list-style-type: none"> <li>NextEra will restore temporary work areas following the construction phase. Stripped topsoil will be replaced and recontoured in the construction areas and disturbed areas will be re-seeded, as appropriate. Once the turbines are constructed, farming practices can continue up to within a few metres of the turbine base.</li> <li>Temporary access roads will be revegetated to pre-construction conditions as soon as possible following construction activities using species native to Ontario in naturally vegetated areas.</li> <li>Vegetation removal will be kept to a minimum and limited to non-significant habitats according to MNR definitions (e.g., hedgerows). Damaged trees will be pruned through the implementation of proper arboricultural techniques. Where vegetation removal is to occur within 30 m of a feature, protective fencing will be installed to define the construction area and prevent accidental damage to vegetation.</li> </ul>	<ul style="list-style-type: none"> <li>Construction Plan Report: Table 3-2- Mitigation Measures, Residual Effects and Monitoring Plan: Generalized Candidate Significant Wildlife Habitat; and,</li> <li>Construction Plan Report: Table 3-3 – Mitigation Measures, Residual Effects and Monitoring Plan: Significant Wetlands, Woodlands, Valleylands and Wildlife Habitat</li> </ul>
<ul style="list-style-type: none"> <li>Health effects including shadow</li> </ul>	<ul style="list-style-type: none"> <li>NextEra takes concerns about human health very seriously. Although much has been written</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operation Report: Section 6 – Emergency</li> </ul>

Issue/Value	Response	Corresponding Report and Section
flicker	<p>about health effects associated with wind turbines, NextEra has found no credible, scientifically peer-reviewed study that demonstrates a causal link between wind turbines and negative health effects. On the contrary, the study "Wind Turbine Sound and Health Effects: An Expert Panel Review" had the following key conclusions:</p> <ol style="list-style-type: none"> <li>1. Sound from wind turbines does not pose a risk of hearing loss or any other adverse health effect in humans.</li> <li>2. Subaudible, low frequency sound and infrasound from wind turbines do not present a risk to human health.</li> <li>3. Some people may be annoyed at the presence of sound from wind turbines. Annoyance is not a pathological entity.</li> <li>4. A major cause of concern about wind turbine sound is its fluctuating nature. Some may find this sound annoying, a reaction that depends primarily on personal characteristics as opposed to the intensity of the sound level.</li> </ol> <ul style="list-style-type: none"> <li>• The full report can be found in the Canadian Wind Energy Association's website: <a href="http://www.canwea.ca/pdf/talkwind/Wind_Turbine_Sound_and_Health_Effects.pdf">www.canwea.ca/pdf/talkwind/Wind_Turbine_Sound_and_Health_Effects.pdf</a> and on <a href="http://www.NextEraEnergyCanada.com">www.NextEraEnergyCanada.com</a>.</li> <li>• In their decision on the Kent Breeze Wind project in Chatham-Kent, the Ontario Ministry of Environment stated: <ul style="list-style-type: none"> <li><i>"The Chief Medical Officer of Health agreed to undertake a review of existing information and to consult with the Ontario Agency for Health Protection and Promotion and local medical officers of health on health effects related to wind turbines. The results of the review and consultation were published on May 20, 2010 and released in a report titled "The Potential Health Impacts of Wind Turbines". The review concluded that scientific evidence available to date does not demonstrate a direct causal link between wind turbine noise and adverse health effects. The sound level from wind turbines at common residential setbacks is not sufficient to cause hearing impairment or other direct health effects, and there is no scientific evidence to date that vibration from low frequency wind turbine noise causes adverse health effects, although some people may find it annoying.</i></li> <li><i>Regarding shadow flicker, a common concern is its possible relationship to epilepsy. The Chatham-Kent Board of Health reviewed potential impacts in their report dated June 2008 and stated that "The frequency of wind turbines is well below the current known documented threshold for triggering epilepsy symptoms."</i></li> </ul> </li> <li>• The Massachusetts Department of Environmental Protection convened an expert panel in collaboration with the Massachusetts Department of Public Health to investigate potential human health effects associated with proximity to wind turbines. The panel, comprised of physicians and scientists, reviewed existing information within their areas of expertise and recently released a report titled Wind Turbine Health Impact Study: Report of Independent Expert Panel. Some of the key findings are summarized below: <ul style="list-style-type: none"> <li>▪ "There is no evidence for a set of health effects from exposure to wind turbines that could be characterised as "Wind Turbine Syndrome"."</li> <li>▪ "Available evidence shows that the infrasound levels near wind turbines cannot impact the vestibular system" [i.e. the system responsible for balance].</li> </ul> </li> </ul>	Response and Communication Plan (regarding the complaint resolution process)

Issue/Value	Response	Corresponding Report and Section
	<ul style="list-style-type: none"> <li>▪ "None of the limited epidemiological evidence reviewed suggests an association between noise from wind turbines and pain and stiffness, diabetes, high blood pressure, tinnitus, hearing impairment, cardiovascular disease, and headache/migraine."</li> <li>• Regarding shadow flicker, when the sun is in a particular position behind a turbine, and there is no cloud cover, rotating wind turbine blades may cast shadows in the windows of neighbouring properties creating what is known as a "flickering" effect. Ontario's minimum 550 metre setback from non-participating homes helps minimize this effect, but it may not completely remove it. This phenomenon can be very easily predicted and, if necessary, mitigated by planting trees or installing awnings in the line of sight.</li> <li>• The American Epilepsy Foundation indicated that flashing lights most likely to trigger a seizure occur at frequencies between 5 to 30 Hertz (Hz). Shadow flicker generated by wind turbines, however, has a frequency well below that level, and ranges from 0.5 to 1.25 Hz.</li> <li>• Fundamentally, shadow flicker is an aesthetic rather than a safety issue, but it is recognized that it could be disruptive. Although not a requirement of Ontario Regulation 359/09, NextEra completed a Shadow Flicker Report for the Goshen Wind Energy Project and it was provided for public review and comment 60-days prior to the final public meeting and is available on the Project website.</li> <li>• Finally, NextEra will have a Complaint Resolution Process in place to address any concerns related to the Project, should they arise. This process outlines the steps to be taken to resolve the issue including: contacting the complainant within 24 hours of receiving the complaint to understand and seek a resolution, notifying the MOE of the complaint and filing a Complaint Record, and finally, proposing a face-to-face meeting if the issue cannot be resolved through a phone call.</li> </ul>	
<ul style="list-style-type: none"> <li>• Cumulative Effects</li> </ul>	<ul style="list-style-type: none"> <li>• The Natural Heritage Assessment provides an indication of possible impacts to species within 120 m of the Project Location and proposes mitigation measures to minimize those potential impacts. The NHA is provided to the MNR with the understanding that the MNR has the potential to consider the overall cumulative impacts from multiple projects over time. As described, post construction monitoring will occur for this project and the results will be provided to MNR for their further assessment.</li> </ul>	<ul style="list-style-type: none"> <li>• Natural Heritage Assessment Report</li> </ul>
<ul style="list-style-type: none"> <li>• Magnetic Fields</li> </ul>	<ul style="list-style-type: none"> <li>• Electric and magnetic fields (EMF) are produced by the transmission of electricity and comes from any type of electrical equipment, such as televisions, household appliances and transmission lines. Health Canada (2010) has stated that "When you are indoors at home, the magnetic fields from high voltage power lines and transformer boxes are weaker than those from household electrical appliances". In a recent paper, Israel et al. (2011), measured EMF from a wind farm in Bulgaria and concluded that "Electromagnetic fields are not emitted on the operation of wind turbines or they are so small that they are insignificant compared to the values to be found in other measurements in residential areas and homes. The measured values are much below the national exposure limits, and of the European Council recommendations."</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>

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## **Appendixes**

### Appendix G.2 Kettle and Stony Point First Nation

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Concern about impacts to terrestrial harvest species (deer mentioned) and how to assess impacts post-construction, during operations stage</li> </ul>	<ul style="list-style-type: none"> <li>Potential effects to terrestrial species are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Winter Deer Yards and Deer Migration Corridors.</li> <li>The Ministry of Natural Resources (MNR) has identified a Winter Deer Yard associated with the Hay Swamp Provincially Significant Wetland. Potential effects to these features are assessed in the Environmental Impact Study of the Natural Heritage Assessment.</li> <li>Negative effects to deer are not anticipated as a result of the project and no post-construction monitoring is required. Deer are generally quite adaptable to human disturbances and will move considerable distances between patches of suitable habitat, particularly at night; therefore operational effects on deer movement corridors are not expected. The only anticipated negative effect to deer is possible temporary avoidance from the vicinity of active construction. There is some evidence that similar species including North American Elk, Norwegian Red Deer and Reindeer may temporarily avoid wind farms during construction (just as they would avoid other construction activities), but come back to graze in wind farms during operation (Helldin and Alvares, 2011; Helldin et al. 2012). A study of the effect of wind turbine operation on deer and other game animals found no evidence of different habitat use or distribution in areas with operating wind farms, and that the number of scats and tracks was similar for all distances (10 m to 1,000 m) from turbines (Menzel and Pohlmeier, 1999). Similarly, studies of the effect of wind turbine operation on domestic reindeer have found no evidence of avoidance or changes in behaviour indicative of fear or stress from noise or visual effects (Flydal et al. 2004). There is some evidence that deer will avoid high traffic roads (Helldin et al. 2012), however access roads associated with the Project are expected to be used very infrequently during operation therefore negative effects on deer are not expected.</li> </ul>	<ul style="list-style-type: none"> <li>Natural Heritage Assessment and Environment Impact Study Report: Section 2.2.2.4 - Wildlife Habitat (including rare species)</li> </ul>
<ul style="list-style-type: none"> <li>Will want archaeological observer in <b>field work</b> and for ground disturbance/excavation</li> </ul>	<ul style="list-style-type: none"> <li>During field work, one fully independent First Nation monitor was supported by NextEra, who reported directly to four interested First Nations governments, including Kettle and Stony Point First Nation. To date, the monitor's reports of field work have been positive and no concerns identified. NextEra also agreed with the monitor's recommendation to have archaeological monitoring in place for archaeological sites as follows: archaeological sites recommended for Stage 3 archaeological assessment that have been fenced with a 20 m buffer will have construction activities monitored within an additional 50 m zone outside of that buffer; and archaeological sites recommended for Stage 4 avoidance that have been fenced with a 10 m buffer will also be monitored in case additional archaeological resources are present outside of that buffered area.</li> </ul>	<ul style="list-style-type: none"> <li>Construction Plan Report: Table 3-1 – Mitigation Measures, Residual Effects and Monitoring Plan: Cultural Heritage</li> </ul>
<ul style="list-style-type: none"> <li>Interest in bird/bat mortality and monitoring</li> </ul>	<ul style="list-style-type: none"> <li>NextEra will develop and implement a monitoring program for bird and bat mortality consistent with <i>Birds and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011a) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011b) which will include: <ul style="list-style-type: none"> <li>Conducting 3-years of post-construction mortality surveys for birds including raptors (such as hawks and owls) and bats;</li> <li>Conducting subsequent monitoring for two years at individual turbines (and unmonitored turbines in close proximity) if significant bird or bat mortality is identified;</li> <li>Conducting effectiveness monitoring at individual turbines for three years where mitigation has been implemented.</li> </ul> </li> <li>The findings of the bird and bat mortality monitoring programs will be reported back to MNR on an annual basis for the first 3 years of operation.</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring Plan: Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul>



Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Concern about impacts to terrestrial harvest species (deer mentioned) and how to assess impacts post-construction, during operations stage</li> </ul>	<ul style="list-style-type: none"> <li>Potential effects to terrestrial species are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Winter Deer Yards and Deer Migration Corridors.</li> <li>The Ministry of Natural Resources (MNR) has identified a Winter Deer Yard associated with the Hay Swamp Provincially Significant Wetland. Potential effects to these features are assessed in the Environmental Impact Study of the Natural Heritage Assessment.</li> <li>Negative effects to deer are not anticipated as a result of the project and no post-construction monitoring is required. Deer are generally quite adaptable to human disturbances and will move considerable distances between patches of suitable habitat, particularly at night; therefore operational effects on deer movement corridors are not expected. The only anticipated negative effect to deer is possible temporary avoidance from the vicinity of active construction. There is some evidence that similar species including North American Elk, Norwegian Red Deer and Reindeer may temporarily avoid wind farms during construction (just as they would avoid other construction activities), but come back to graze in wind farms during operation (Helldin and Alvares, 2011; Helldin et al. 2012). A study of the effect of wind turbine operation on deer and other game animals found no evidence of different habitat use or distribution in areas with operating wind farms, and that the number of scats and tracks was similar for all distances (10 m to 1,000 m) from turbines (Menzel and Pohlmeier, 1999). Similarly, studies of the effect of wind turbine operation on domestic reindeer have found no evidence of avoidance or changes in behaviour indicative of fear or stress from noise or visual effects (Flyvdal et al. 2004). There is some evidence that deer will avoid high traffic roads (Helldin et al. 2012), however access roads associated with the Project are expected to be used very infrequently during operation therefore negative effects on deer are not expected.</li> </ul>	<ul style="list-style-type: none"> <li>Natural Heritage Assessment and Environment Impact Study Report: Section 2.2.2.4 - Wildlife Habitat (including rare species)</li> </ul>
<ul style="list-style-type: none"> <li>Will want archaeological observer in field work and for ground disturbance/excavation</li> </ul>	<ul style="list-style-type: none"> <li>During field work, a fully independent First Nations monitor was supported by NextEra, who reported directly to four interested First Nations governments, including Kettle and Stony Point First Nation. The monitor is a licensed archaeologist and First Nations person. To date, the monitor's reports of field work have been positive and no concerns identified. NextEra also agreed with the monitor's recommendation to have archaeological monitoring in place for archaeological sites as follows: archaeological sites recommended for Stage 3 archaeological assessment that have been fenced with a 20 m buffer will have construction activities monitored within an additional 50 m zone outside of that buffer; and archaeological sites recommended for Stage 4 avoidance that have been fenced with a 10 m buffer will also be monitored in case additional archaeological resources are present outside of that buffered area.</li> </ul>	<ul style="list-style-type: none"> <li>Construction Plan Report: Table 3-1 – Mitigation Measures, Residual Effects and Monitoring Plan: Cultural Heritage</li> </ul>
<ul style="list-style-type: none"> <li>Interest in bird/bat mortality and monitoring</li> </ul>	<ul style="list-style-type: none"> <li>NextEra will develop and implement a monitoring program for bird and bat mortality consistent with <i>Birds and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011a) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011b) which will include: <ul style="list-style-type: none"> <li>Conducting 3-years of post-construction mortality surveys for birds including raptors (such as hawks and owls) and bats;</li> <li>Conducting subsequent monitoring for two years at individual turbines (and unmonitored turbines in close proximity) if significant bird or bat mortality is identified;</li> <li>Conducting effectiveness monitoring at individual turbines for three years where mitigation has been implemented.</li> </ul> </li> <li>The findings of the bird and bat mortality monitoring programs will be reported back to MNR on an annual basis for the first 3 years of operation.</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring Plan: Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul>

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Concerns with impact for raptors ("birds that look down")</li> </ul>	<ul style="list-style-type: none"> <li>If mortality thresholds set by the Province are exceeded, NextEra proposes the following operational mitigation techniques for birds (which would be applied at times of the year when mortality risks to the affected bird species are particularly high (e.g., migration):                             <ul style="list-style-type: none"> <li>Periodic shut-down of select turbines; and,</li> <li>Blade feathering (i.e., reduced operations at certain wind speeds).</li> </ul> </li> <li>NextEra proposes the following operational mitigation techniques for bats:                             <ul style="list-style-type: none"> <li>Changing the wind turbine cut-in speed to 5.5 m/s;</li> <li>Feathering of blades when wind speeds are below 5.5 m/s; and,</li> <li>Co-ordinating turbine shut-down for maintenance with periods of high bat activity and/or mortality.</li> </ul> </li> <li>The above-mitigation measures would be implemented if deemed necessary by the results of post-construction monitoring and the MNR.</li> <li>Finally, NextEra will utilize a lighting scheme that will minimize risk to bird or bat collisions, while fulfilling Transport Canada requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring plan; Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul>
<ul style="list-style-type: none"> <li>Concerns with impact for raptors ("birds that look down")</li> </ul>	<ul style="list-style-type: none"> <li>Potential effects to raptors are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Raptor Winter Feeding and Roosting, Raptor Nesting, Bald Eagle Nesting and Osprey Nesting Habitats. None of these areas were determined to be located within 120 m of turbines, and as per MNR guidelines, these areas were not carried forward to the Environmental Impact Study. General mitigation measures will be applied to potential woodland raptor nesting areas in the Project Area during construction.</li> <li>Post construction monitoring for potential raptor mortality is required for all wind farms and will be completed as per the guidelines identified above.</li> <li>Wind turbines are constructed to meet Canadian Standards Association (CSA) and technical standards and therefore any impacts from seismic activity are extremely remote.</li> </ul>	<ul style="list-style-type: none"> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 3.3.6 – Wildlife Habitat; Section Table 5.6 – Potential Effects on Generalized Candidate Significant Wildlife Habitat and Mitigation Measures</li> </ul>
<ul style="list-style-type: none"> <li>Mentioned seismic activity in vicinity</li> <li>Concerned about turbine vibrations affecting wildlife behaviours, especially reptiles</li> </ul>	<ul style="list-style-type: none"> <li>No Significant Turtle Nesting Habitats were determined to be located within 120 m of proposed access roads, and as per MNR guidelines, these areas were not carried forward to the Environmental Impact Study. General mitigation measures will be applied to potential turtle nesting areas in the Project Area during construction.</li> <li>Two Candidate Snake Hibernacula Habitats and two candidate Turtle Wintering Areas were identified within 120 m of the Project Location. Risks to snakes and turtles are primarily the result of their sensitivity to road mortality along access roads. Once construction is complete, traffic is expected to be very light; therefore road mortality is not expected to be significant.</li> <li>In general, turbines are designed to avoid creating vibration as this would affect long term structural stability. Therefore, it is not anticipated that any vibrations would be transmitted at any appreciable distance that would impact wildlife.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 3.3.6 – Wildlife Habitat; Section Table 5.6 – Potential Effects on Generalized Candidate Significant Wildlife Habitat and Mitigation Measures; Table 5.7 – Potential Effects on Significant Wildlife Habitat and Mitigation Measures</li> </ul>
<ul style="list-style-type: none"> <li>Concerned about visual impacts for their golf course operations</li> <li>Show Stony Point and Ipperwash as separate communities on mapping.</li> </ul>	<ul style="list-style-type: none"> <li>The closest turbine from the Goshen Wind Energy Centre is approximately 20 km from the Indian Hills Golf Club. As such, no visual effects from the Project are anticipated.</li> <li>Any required mapping will show separate communities.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> <li>N/A</li> </ul>

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Concern about presence of transformers if in proximity to residences</li> </ul>	<ul style="list-style-type: none"> <li>The transformer substation location will abide by sound regulations prescribed by the Ministry of the Environment. In addition, a 5 m high noise barrier will be installed around the transformer to ensure compliance with the MOE noise limits.</li> <li>Also, as noted above closest turbine is approximately 20 kilometres away from Kettle and Stony Point First Nation.</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-5 – Mitigation Measures, Residual Effects and Monitoring Plan: Noise</li> </ul>
<ul style="list-style-type: none"> <li>Experience with Sky Generation wind farm (immediately adjacent to community)                             <ul style="list-style-type: none"> <li>Interference with TV reception (mitigation - cable TV paid for)</li> <li>Concerns about interference with emergency services radio, cell phones and community radio</li> <li>Shadow flicker in some homes (mitigation - heavy curtains)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>In discussions with Kettle and Stony Point, it was confirmed that most or all concerns were mitigated by the wind farm operator. The closest turbine for the Project is approximately 20 km to the south of the Chippewas of Kettle and Stony Point community, as such; effects from shadow flicker are not anticipated.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<ul style="list-style-type: none"> <li>Many interruptions to Hydro service during Sky Gen construction were seen as related - concern for a community member who is on a respirator</li> </ul>	<ul style="list-style-type: none"> <li>No interruptions in electrical service are anticipated during the construction of the facility.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<ul style="list-style-type: none"> <li>Will the lights on the turbines cause confusion for lake fishermen who use shoreline lights for navigation?</li> </ul>	<ul style="list-style-type: none"> <li>Turbine lighting will likely be visible by fishermen on the lake. It is expected that the turbine lighting can be distinguished from other navigational lighting.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

## References

- Flydal, K., Eftestøl, S., Reimers, E., and Colman, J.E. 2004. Effects of wind turbines on area use and behaviour of semidomesticated reindeer in enclosures. *Rangifer*, vol. 24, pp. 55–66, 2004.
- Heldlin, J.O., Jung, J., Neumann, W., Olsson, M., Skarin, A., and Widemo, F. 2012. The impacts of wind power on terrestrial mammals: a synthesis. Swedish Environmental Protection Agency.
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- Menzel, C. and Pohlmeier, K. 1999. Proof of habitat utilization of small game species by means of feces control with “dropping markers” in areas with wind-driven power generators. *Zeitschrift für Jagdwissenschaft*, Volume 45, p. 223–229.



## Appendixes

### Appendix G.3 Munsee-Delaware First Nation

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>• Potential Impacts to Terrestrial Species, with the following mentioned specifically:                             <ul style="list-style-type: none"> <li>▪ Deer</li> <li>▪ Squirrels and chipmunks</li> <li>▪ Raccoons</li> <li>▪ Rabbit</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Potential effects to terrestrial species are discussed in the rows below in terms of effects to Candidate Significant Wildlife Habitat and Generalized Candidate Significant Wildlife Habitat with corresponding Report/Section references provided.</li> <li>• Potential effects to terrestrial species are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Winter Deer Yards and Deer Migration Corridors.</li> <li>• The Ministry of Natural Resources (MNR) has identified a Winter Deer Yard associated with the Hay Swamp Provincially Significant Wetland. Potential effects to these features are assessed in the Environmental Impact Study of the Natural Heritage Assessment.</li> <li>• Negative effects to deer are not anticipated as a result of the project and no post-construction monitoring is required. Deer are generally quite adaptable to human disturbances and will move considerable distances between patches of suitable habitat, particularly at night; therefore operational effects on deer movement corridors are not expected. The only anticipated negative effect to deer is possible temporary avoidance from the vicinity of active construction. There is some evidence that similar species including North American Elk, Norwegian Red Deer and Reindeer may temporarily avoid wind farms during construction (just as they would avoid other construction activities), but come back to graze in wind farms during operation (Helldin and Alvares, 2011; Helldin et al. 2012). A study of the effect of wind turbine operation on deer and other game animals found no evidence of different habitat use or distribution in areas with operating wind farms, and that the number of scats and tracks was similar for all distances (10 m to 1,000 m) from turbines (Menzel and Pohlmeier, 1999). Similarly, studies of the effect of wind turbine operation on domestic reindeer have found no evidence of avoidance or changes in behaviour indicative of fear or stress from noise or visual effects (Flydal et al. 2004). There is some evidence that deer will avoid high traffic roads (Helldin et al. 2012), however access roads associated with the Project are expected to be used very infrequently during operation therefore negative effects on deer are not expected.</li> <li>• In general, the significance of effects to terrestrial species is anticipated to be low with the implementation of the recommended mitigation measures and monitoring commitments for Generalized Candidate Significant Wildlife Habitat.</li> </ul> <p><b>Timing of Construction:</b></p> <ul style="list-style-type: none"> <li>• Construction and decommissioning activities within 30 m of woodlands or wetlands should occur during daylight hours (7:00 am and 7:00 pm), wherever possible.</li> <li>• Vegetation removal should occur outside the breeding bird period (May 1 to July 31). Undertake active nest surveys if clearing of vegetation must take place during this period.</li> </ul> <p><b>Natural Areas Protection</b></p> <ul style="list-style-type: none"> <li>• Keep vegetation removal to a minimum and limited to non-significant habitats according to MNR definitions (e.g., hedgerows).</li> <li>• For roadside collection line routes, vegetation removal (if any) will be kept to a minimum and will be limited to the road right-of-way.</li> <li>• Where construction is to occur within 30 m of a naturally vegetated feature (i.e., woodland, wetland, etc.), install and maintain protective fencing to clearly define the construction area and prevent accidental damage to vegetation.</li> <li>• Trees at risk of being damaged during construction should be pruned through implementation of</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• Natural Heritage Assessment and Environment Impact Study Report: Section 2.2.2.4 - Wildlife Habitat (including rare species)</li> </ul>
		<ul style="list-style-type: none"> <li>• Natural Heritage Assessment and Environment Impact Study Report: Section 5.4 – Overview of Proposed Mitigation Measures</li> <li>• Construction Plan Report: Table 3-2 – Mitigation Measures, Residual Effects and Monitoring Plan: Generalized Candidate Significant Wildlife Habitat</li> <li>• Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring Plan: Natural Heritage Resources</li> </ul>

Munsee-Delaware First Nation

Issue/Value	Response	Corresponding Report and Section
	<p>proper arboricultural techniques.</p> <ul style="list-style-type: none"> <li>Where excavation for construction of access roads or collection lines is conducted within the rooting zone of trees (i.e. within the dripline), proper root pruning measures should be implemented to protect tree roots.</li> </ul> <p><b>Erosion and Sediment Control</b></p> <ul style="list-style-type: none"> <li>Develop and implement an erosion and sediment control plan before commencement of construction.</li> <li>Utilize erosion blankets, erosion control fencing, straw bales, siltation bags, etc. for construction activities within 30 m of a wetland, woodland or water body, to mitigate potential excessive erosion and sedimentation. Extra erosion and sediment control materials should be kept on hand, (i.e., heavy duty silt fencing, straw bales).</li> <li>Keep sediment and erosion control measures in place until disturbed areas have been stabilized (i.e., re-vegetated).</li> <li>Schedule grading within 30 m of a watercourse or wetland to avoid times of high runoff volumes (spring and fall), wherever possible. Temporarily suspend work if high runoff volume is noted or excessive flows of sediment discharges occur until mitigation measures are in place.</li> <li>Re-vegetate temporary roads to pre-construction conditions as soon as possible after construction activities are complete using species native to Ontario in naturally vegetated areas.</li> </ul> <p><b>Equipment Use</b></p> <ul style="list-style-type: none"> <li>Ensure machinery is maintained free of fluid leaks.</li> <li>Minimize vehicle traffic on exposed soils, avoid compacting or other hardening of natural ground surface, and avoid the movement of heavy machinery on areas with sensitive slopes.</li> <li>Where feasible, light vehicles with wide tires having a large surface area (rather than tracked vehicles) and lighter machinery (e.g. hand-held equipment) should be used in and around natural areas.</li> <li>Any vehicles used within natural areas should use wide-based tires. Tracked vehicles should be avoided.</li> <li>Site maintenance, vehicle washing and refuelling stations where contaminants are handled should be located at least 30 m away from natural features or water bodies. Vehicle refuelling and maintenance should be done on spill collection pads.</li> </ul> <p><b>Grading and Excavation</b></p> <ul style="list-style-type: none"> <li>Minimize changes in land contours and natural drainage; maintain timing and quantity of flows. Any grading of lands adjacent to natural heritage features should match existing grades at the identified set-back, or buffer from the features.</li> </ul> <p><b>Materials Stockpiling and Handling</b></p> <ul style="list-style-type: none"> <li>Store any stockpiled materials at least 30 m away from a wetland, woodland or water body to prevent deleterious substances from inadvertently discharging to the environment.</li> <li>Develop a spill response plan and train staff on associated procedures.</li> <li>Maintain emergency spill kits on site.</li> <li>Control soil / water contamination through best management practices.</li> <li>Dispose of any waste material from construction activities by authorized and approved off-site</li> </ul>	

Munsee-Delaware First Nation

Issue/Value	Response	Corresponding Report and Section
	<p>vendors.</p> <p><b>Horizontal Directional Drilling</b></p> <ul style="list-style-type: none"> <li>• Conduct all drilling by licensed drillers in accordance with Regulation 903 under Ontario Water Resources Act, R.S.O. 1990.</li> <li>• Set back drill entry and exit pits at least 30 m from natural features (i.e., woodlands, wetlands) or water bodies.</li> <li>• Collect drill cuttings as they are generated and place in a soil bin or bag for off-site disposal.</li> <li>• Ensure drill depth is at an appropriate depth below natural features to reduce the risk of a “frac-out” (i.e. Escape of drilling mud into the environment as a result of a spill, tunnel collapse or the rupture of mud to the surface.).</li> <li>• Monitor natural features for signs of surface disturbance.</li> <li>• Implement the following Contingency Plan in the event of a “frac-out”:             <ul style="list-style-type: none"> <li>▪ Immediately stop all work, including the recycling of drilling mud / lubricant; monitor “frac-out” for 4 hours to determine if the drilling mud congeals.</li> <li>▪ If drilling mud congeals, take no other action that would potentially suspend sediments in the water column.</li> <li>▪ If drilling mud does not congeal, erect isolation/containment environment (underwater boom and curtain); if the fracture becomes excessively large, engage a spill response team to contain and clean up excess drilling mud in the water; if the spill affects an area that is vegetated, the area will be seeded and/or replanted using species similar to those in the adjacent area, or allowed to re-grow from existing vegetation.</li> <li>▪ Revegetated areas will be monitored twice per year for two years subsequent to “frac-out” to confirm revegetation is successful; and document post-cleanup conditions with photographs and prepare “frac-out” incident report describing time, place, actions taken to remediate “frac-out” and measures implemented to prevent recurrence.</li> <li>▪ Provide incident report to MNR and MOE within 30 days of the incident.</li> </ul> </li> </ul> <p><b>Wildlife Protection</b></p> <ul style="list-style-type: none"> <li>• Clearly post construction speed limits. Install and maintain wildlife crossing and speed limit signs on access roads.</li> <li>• Conduct post-construction bird and bat mortality monitoring for at least 3 years, as per MNR guidelines.</li> <li>• Implement operational mitigation measures, as per MNR guidelines, should mortality rates surpass the provincial thresholds for birds or bats.</li> <li>• Only apply herbicides (if required) when wind speeds are low and no significant precipitation is expected (does not apply to agricultural practices).</li> <li>• Only use herbicides (if required) approved for use adjacent to water bodies, riparian buffers, or woodland edges (does not apply to agricultural practices).</li> </ul> <p><b>Dewatering Activities (if necessary)</b></p> <ul style="list-style-type: none"> <li>• Control rate and timing of water pumping.</li> <li>• Pump from deep wells to infiltration galleries adjacent to water bodies or wetlands.</li> <li>• Restrict taking of water during periods of extreme low flow.</li> <li>• Install a temporary storage basin to allow water to infiltrate, or use permanent stormwater</li> </ul>	

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Potential Impacts to Avian Species, with the following mentioned specifically:                             <ul style="list-style-type: none"> <li>Turkey</li> </ul> </li> </ul>	<p>management facilities as necessary.</p> <p><b>Impervious Surfaces</b></p> <ul style="list-style-type: none"> <li>Maintain vegetative buffers around water bodies.</li> <li>Control quantity and quality of stormwater discharge using best management practices.</li> <li>Potential effects to avian species, including turkey, are discussed in the rows below with corresponding Report/Section references provided.</li> <li>52 Wild Turkeys were observed during the field studies. Effects to turkeys from direct collision with turbines are not anticipated as they typically do not fly at blade height.</li> <li>NextEra will develop and implement a monitoring program for bird and bat mortality consistent with <i>Birds and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011a) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011b) which will include:                             <ul style="list-style-type: none"> <li>Conducting 3-years of post-construction mortality surveys for birds including raptors (such as hawks and owls) and bats;</li> <li>Conducting subsequent monitoring for two years at individual turbines (and unmonitored turbines in close proximity) if significant bird or bat mortality is identified;</li> <li>Conducting effectiveness monitoring at individual turbines for three years where mitigation has been implemented.</li> </ul> </li> <li>The findings of the bird and bat mortality monitoring programs will be reported back to MNR on an annual basis for the first 3 years of operation.</li> <li>If mortality thresholds set by the Province are exceeded, NextEra proposes the following operational mitigation techniques for birds (which would be applied at times of the year when mortality risks to the affected bird species are particularly high (e.g., migration):                             <ul style="list-style-type: none"> <li>Periodic shut-down of select turbines; and,</li> <li>Blade feathering (i.e., reduced operations at certain wind speeds).</li> </ul> </li> <li>NextEra proposes the following operational mitigation techniques for bats:                             <ul style="list-style-type: none"> <li>Changing the wind turbine cut-in speed to 5.5 m/s;</li> <li>Feathering of blades when wind speeds are below 5.5 m/s; and,</li> <li>Co-ordinating turbine shut-down for maintenance with periods of high bat activity and/or mortality.</li> </ul> </li> <li>The above-mitigation measures would be implemented if deemed necessary by the results of post-construction monitoring and the MNR.</li> <li>Finally, NextEra will utilize a lighting scheme that will minimize risk to bird or bat collisions, while fulfilling Transport Canada requirements.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> <li>N/A</li> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring Plan: Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul>
<ul style="list-style-type: none"> <li>Potential Impacts to watercourses that may support harvestable aquatic species</li> </ul>	<p>Effects on fish habitat were assessed as part of the Water Assessment and Water Body Report. The construction phase of the project is the time during which potential effects to fish habitat could occur; therefore, a mitigation plan has been developed. With the implementation of the recommended mitigation measures, residual effects are anticipated to be low. Mitigation measures to address potential effects to fish habitat include:</p> <ul style="list-style-type: none"> <li>Design and install culverts to prevent creation of barriers to fish movement and maintain bankfull channel functions.</li> <li>Design culverts to accommodate high flows of the watercourse.</li> <li>Embed the culvert below the streambed to maintain lateral flow.</li> <li>Install adequate gravel base to maintain flow of shallow groundwater.</li> </ul>	<ul style="list-style-type: none"> <li>Water Assessment and Water Body Report: Section 5.3 – Mitigation Measures</li> <li>Construction Plan Report: Table 3-4 – Mitigation Measures, Residual Effects and Monitoring Plans: Surface Water and Groundwater</li> </ul>



Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>• Potential impact to habitat that may support harvestable plant species or to the plants themselves.</li> <li>• Getting species information was not possible but we were referred to the Kettle and Stony Point Native Women's Workshop proceedings of Southern Ontario Aboriginal Health (forum?) that produced information on medicinal plants. Note that NextEra has not been able to locate the workshop proceedings.</li> </ul>	<ul style="list-style-type: none"> <li>• Locate crossings within straight sections of the stream, perpendicular to the bank. Avoid crossings on meander bends, braided streams and any other unstable areas.</li> <li>• Use only clean material (i.e., rock or coarse gravel) for approaches to culverts.</li> <li>• Regularly maintain culverts to ensure no debris build-up is impeding stream flow.</li> </ul> <p>In addition to the above mitigation measures, NextEra will also implement the following to reduce potential effects to fish:</p> <p><b>Timing Windows</b></p> <ul style="list-style-type: none"> <li>• Time construction within 30 m of watercourses to avoid periods of habitat use to the extent possible. These timing windows are applied to protect fish from any works in and around water during spawning, migration and other critical life history stages. Construction timing windows are based on site specific criteria such as type of fish species present, thermal regime and fish spawning times (spring or fall). The generic restricted in-water work timing windows established by DFO are:             <ul style="list-style-type: none"> <li>▪ Fall Spawning Period – October 1st to May 31st</li> <li>▪ Spring Spawning Period – May 1st to July 15th</li> </ul> </li> <li>• Specific fisheries timing windows will be developed in co-operation with ABCA and UTRCA.</li> </ul> <p><b>Isolated Crossing</b></p> <ul style="list-style-type: none"> <li>• In-water works for permanent water bodies must occur in the dry via dry conditions and dam and pump method to maintain fish passage during in-water works. For intermittent water bodies, work is preferred to be completed in the dry and carried out during seasonally dry times or when the water body is frozen to the bottom.</li> <li>• Develop and implement a fish rescue plan for dewatering areas. This will include appropriate sized end-of-pipe fish screen to prevent potential losses of fish due to entrainment or impingement as outlined in the DFO – Freshwater Intake End-of-Pipe Fish Screen Guideline.</li> <li>• The Project is sited predominantly on actively farmed agricultural fields.</li> <li>• However, where vegetation removal is required, NextEra will restore temporary work areas following the construction phase. Stripped topsoil will be replaced and recontoured in the construction areas and disturbed areas will be re-seeded, as appropriate. Once the turbines are constructed, farming practices can continue up to within a few metres of the turbine base.</li> <li>• Temporary access roads will be revegetated to pre-construction conditions as soon as possible following construction activities using species native to Ontario in naturally vegetated areas.</li> </ul> <p>Vegetation removal will be kept to a minimum and limited to non-significant habitats according to MNR definitions (e.g., hedgerows). Damaged trees will be pruned through the implementation of proper arboricultural techniques. Where vegetation removal is to occur within 30 m of a feature, protective fencing will be installed to define the construction area and prevent accidental damage to vegetation.</p>	<ul style="list-style-type: none"> <li>• Construction Plan Report: Table 3-2– Mitigation Measures, Residual Effects and Monitoring Plan: Generalized Candidate Significant Wildlife Habitat; and,</li> <li>• Construction Plan Report: Table 3-3 – Mitigation Measures, Residual Effects and Monitoring Plan: Significant Wetlands, Woodlands, Valleylands and Wildlife Habitat</li> </ul>
<ul style="list-style-type: none"> <li>• Archaeology</li> </ul>	<ul style="list-style-type: none"> <li>• The archaeological studies were conducted by licensed archaeologists according to Ministry of Tourism, Culture and Sport standards. A total of 61 archaeological sites were identified as of September 2012 and included 36 pre-contact Aboriginal sites, 20 historic Euro-Canadian sites, and 5 multi-component sites. Approximately 33 sites were recommended for further Stage 3 archaeological assessments. This meant that the locations have cultural heritage value or interest</li> </ul>	<ul style="list-style-type: none"> <li>• Stage 2 Archaeological Assessment Report: Section 4.0 – Analysis and Conclusions</li> </ul>

Issue/Value	Response	Corresponding Report and Section
	that needs further study. These assessments will either be carried out prior to construction in the area or the site will be avoided. The cultural heritage value or interest of the remaining sites was considered to be sufficiently documented and as such, no further studies were recommended.	

**References**

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Helldin, J.O., Jung, J., Neumann, W., Olsson, M., Skarin, A., and Widemo, F. 2012. The impacts of wind power on terrestrial mammals: a synthesis. Swedish Environmental Protection Agency.

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Appendix G.4  
Walpole Island First Nation

**Appendixes**

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>No net loss approach, if not habitat/species enhancements - Walpole Island FN seen as a central "hub", for enhancement/restoration/protection within the TT</li> </ul>	<ul style="list-style-type: none"> <li>NextEra will restore temporary work areas following the construction phase. Stripped topsoil will be replaced and recontoured in the construction areas and disturbed areas will be re-seeded, as appropriate. Once the turbines are constructed, farming practices can continue up to within a few metres of the turbine base.</li> <li>Temporary access roads will be revegetated to pre-construction conditions as soon as possible following construction activities using species native to Ontario in naturally vegetated areas.</li> <li>Vegetation removal will be kept to a minimum and limited to non-significant habitats (e.g., hedgerows). Damaged trees will be pruned through the implementation of proper arboricultural techniques. Where vegetation removal is to occur within 30 m of a feature, protective fencing will be installed to define the construction area and prevent accidental damage to vegetation.</li> </ul>	<ul style="list-style-type: none"> <li>Construction Plan Report: Table 3-2– Mitigation Measures, Residual Effects and Monitoring Plan: Generalized Candidate Significant Wildlife Habitat; and,</li> <li>Construction Plan Report: Table 3-3 – Mitigation Measures, Residual Effects and Monitoring Plan: Significant Wetlands, Woodlands, Valleylands and Wildlife Habitat</li> </ul>
<ul style="list-style-type: none"> <li>Walpole has an archaeology master plan. They would like to see it's values and approach extended throughout TT</li> </ul>	<ul style="list-style-type: none"> <li>While not explicitly stated in the archaeological reporting, Golder Associates Ltd. has a copy of the Walpole Island archaeological master plan. The master plan's values and approach complement those outlined in the Ministry of Tourism, Culture and Sport's 2011 Standards and Guidelines for Consultant Archaeologists which is the document that Golder's archaeologists follow. Golder also follows the 2011 draft technical bulletin <i>Engaging Aboriginal Communities in Archaeology</i>.</li> <li>NextEra consulting archaeologists are also required to comply with the NextEra Energy Canada, ULC Ontario Projects Archaeological Protocol.</li> </ul>	<ul style="list-style-type: none"> <li>Stage 2 Archaeological Assessment Report: Section 1.0 – Project Context; Section 2.0 – Field Methods; and Supplementary Document C – Aboriginal Engagement</li> </ul>
<ul style="list-style-type: none"> <li>Will want archaeological observer in <b>field work</b> and for ground disturbance/excavation</li> </ul>	<ul style="list-style-type: none"> <li>During field work, one fully independent First Nations monitor was supported by NextEra, who reported directly to four interested First Nations governments, including Walpole First Nation. To date, the monitor's reports of field work have been positive and no concerns identified. NextEra also agreed with the monitor's recommendation to have archaeological monitoring in place for archaeological sites as follows: archaeological sites recommended for Stage 3 archaeological assessment that have been fenced with a 20 m buffer will have construction activities monitored within an additional 50 m zone outside of that buffer; and archaeological sites recommended for Stage 4 avoidance that have been fenced with a 10 m buffer will also be monitored in case additional archaeological resources are present outside of that buffered area.</li> </ul>	<ul style="list-style-type: none"> <li>Construction Plan Report: Table 3-1 – Mitigation Measures, Residual Effects and Monitoring Plan: Cultural Heritage</li> </ul>
<ul style="list-style-type: none"> <li>Focus on SAR</li> </ul>	<ul style="list-style-type: none"> <li>Due to the sensitive nature of information about the locations of Species at Risk, they are not identified in the Natural Heritage Assessment and Environmental Impact Study Report.</li> <li>Species at Risk and their habitats potentially occurring within the Study Area are being identified through field investigations, background research and in consultation with the MNR. Four species at risk were observed during field work for the Goshen Wind Energy Project. Potential effects to Species at Risk will be addressed through a Species at Risk Report and submitted to the MNR. This report will also describe mitigation and avoidance measures that will be used to prevent negative effects on Species at Risk. NextEra will work with the MNR to determine if a permit is required under the Endangered Species Act.</li> <li>An Endangered Species Act permit is required if the proposed works will have an adverse effect on a protected species or its habitat, as determined by the MNR. Any required permits will be obtained from the MNR prior to commencing construction and any required mitigation measures or monitoring commitments will be implemented.</li> </ul>	<ul style="list-style-type: none"> <li>Natural Heritage Assessment Report: Section 2.2.2.4 – Wildlife Habitat (Including Rare Species)</li> </ul>
<ul style="list-style-type: none"> <li>Potential impacts to Tundra Swans</li> </ul>	<ul style="list-style-type: none"> <li>Potential effects to migratory birds are addressed through the Natural Heritage Assessment and</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation</li> </ul>

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Potential impacts to Tundra Swans</li> </ul>	<ul style="list-style-type: none"> <li>Potential effects to migratory birds are addressed through the Natural Heritage Assessment and Environmental Impact Study Report. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Waterfowl Stopover and Staging Areas that may be used by Tundra Swans annually during spring migration. Where significant habitats for migratory birds are identified, this information, together with information about other constraints, is used to guide the placement of wind turbines. This habitat-based approach appears to be a key factor in preventing negative effects on birds (MNR, 2011a).</li> <li>Scientific studies have found that migrating swans are generally able to avoid wind turbines and that swan mortality resulting from collisions with wind turbines is limited; however turbines may cause swans to avoid stopover and staging areas used during migration (Hötiker, et al., 2006).</li> <li>Information on species within the Study Areas was conducted as part of the Records Review for the NHA Report and in consultation with the MNR. An initial series of avian surveys was conducted by Golder Associates for the Project Study Area. The Goshen Wind Energy Centre Avian Use Monitoring Report – 2010 (Golder Associates, 2011), describes the results of spring Tundra Swan/waterfowl surveys, winter avian use surveys, spring migration avian use surveys, breeding (summer) avian use surveys and fall migration avian use surveys. It was used in conjunction with Ontario Breeding Bird Atlas (Cadman et al. 2007) data to describe the bird species known to use habitats in the Project Study Area.</li> <li>Additional surveys to identify Candidate Significant Tundra Swan Migratory Stopover and Staging Areas were completed in March 2012.</li> <li>Two Candidate Significant Tundra Swan Migratory Stopover and Staging Areas were determined to be located within 120 m of the Project Location, and as per MNR guidelines, these areas were carried forward to the Environmental Impact Study. Additional spring migration surveys will be completed at these locations in 2013 to collection additional information on Tundra Swan use of the areas. If determined to be significant, mitigation measures and additional post-construction monitoring for disturbance effects will be required at these locations.</li> <li>Post-construction bird mortality studies are required for all wind energy projects in Ontario. Details of the monitoring protocol are provided below.</li> <li>NextEra will develop and implement a monitoring program for bird and bat mortality consistent with <i>Birds and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011a) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011b) which will include: <ul style="list-style-type: none"> <li>Conducting 3-years of post-construction mortality surveys for birds including raptors (such as hawks and owls) and bats;</li> <li>Conducting subsequent monitoring for two years at individual turbines (and unmonitored turbines in close proximity) if significant bird or bat mortality is identified;</li> <li>Conducting effectiveness monitoring at individual turbines for three years where mitigation has been implemented.</li> </ul> </li> <li>The findings of the bird and bat mortality monitoring programs will be reported back to MNR on an annual basis for the first 3 years of operation.</li> <li>If mortality thresholds set by the Province are exceeded, NextEra proposes the following operational mitigation techniques for birds (which would be applied at times of the year when mortality risks to the affected bird species are particularly high (e.g., migration):</li> </ul>	<ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring plan: Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 2.2.2.4 – Wildlife Habitat (including rare species)</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.8 – Significant Wildlife Habitat</li> <li>Natural Heritage Assessment Report: Appendix A – Avian Use Monitoring Report (Golder Associates, 2011)</li> </ul> <ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring Plan: Natural Heritage Resources</li> <li>Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul> <ul style="list-style-type: none"> <li>Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring plan: Natural Heritage Resources</li> </ul>

Issue/Value	Response	Corresponding Report and Section
	<ul style="list-style-type: none"> <li>▪ Periodic shut-down of select turbines; and,</li> <li>▪ Blade feathering (i.e., reduced operations at certain wind speeds).</li> <li>• NextEra proposes the following operational mitigation techniques for bats:               <ul style="list-style-type: none"> <li>▪ Changing the wind turbine cut-in speed to 5.5 m/s;</li> <li>▪ Feathering of blades when wind speeds are below 5.5 m/s; and,</li> <li>▪ Co-ordinating turbine shut-down for maintenance with periods of high bat activity and/or mortality.</li> </ul> </li> <li>• The above-mitigation measures would be implemented if deemed necessary by the results of post-construction monitoring and the MNR.</li> <li>• Finally, NextEra will utilize a lighting scheme that will minimize risk to bird or bat collisions, while fulfilling Transport Canada requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Natural Heritage Assessment and Environmental Impact Study Report: Section 5.10 – Environmental Effects Monitoring Plan</li> </ul>

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> <li>Potential impacts to migratory bird or fish species that may be harvested or support tourism (hunting and fishing)</li> </ul>	<p>Effects on fish habitat were assessed as part of the Water Assessment and Water Body Report. The construction phase of the project is the time during which potential effects to fish habitat could occur; therefore, a mitigation plan has been developed.</p> <p>With the implementation of the recommended mitigation measures, residual effects are anticipated to be low. Mitigation measures to address potential effects to fish habitat include:</p> <p><u>Timing Windows</u></p> <ul style="list-style-type: none"> <li>Time construction within 30 m of watercourses to avoid periods of habitat use to the extent possible. These timing windows are applied to protect fish from any works in and around water during spawning, migration and other critical life history stages. Construction timing windows are based on site specific criteria such as type of fish species present, thermal regime and fish spawning times (spring or fall). The generic restricted in-water work timing windows established by DFO are             <ol style="list-style-type: none"> <li>Fall Spawning Period – October 1st to May 31st</li> <li>Spring Spawning Period – May 1st to July 15th</li> </ol> </li> <li>Specific fisheries timing windows will be developed in co-operation with ABCA and UTRCA.</li> </ul> <p><u>Isolated Crossing</u></p> <ul style="list-style-type: none"> <li>In-water works for permanent water bodies must occur in the dry via dry conditions and clam and pump method to maintain fish passage during in-water works. For intermittent water bodies, work is preferred to be completed in the dry and carried out during seasonally dry times or when the water body is frozen to the bottom.</li> <li>Develop and implement a fish rescue plan for dewatering areas. This will include appropriate sized end-of-pipe fish screen to prevent potential losses of fish due to entrainment or impingement as outlined in the DFO – Freshwater Intake End-of-Pipe Fish Screen Guideline.</li> </ul> <p><u>Erosion and Sediment Control</u></p> <ul style="list-style-type: none"> <li>Develop and implement an erosion and sediment control plan before commencement of construction.</li> <li>Utilize erosion blankets, erosion control fencing, straw bales, etc., where necessary to mitigate potential excessive erosion and sedimentation. Ensure any materials placed in floodline are free from silt and other such particles. Keep extra erosion and sediment control materials on site (e.g., heavy duty silt fencing, strawbales).</li> <li>Keep sediment and erosion control measures in place until disturbed areas have been stabilized (i.e., re-vegetated).</li> <li>Schedule grading to avoid times of high runoff volumes where possible. Temporarily</li> </ul>	<ul style="list-style-type: none"> <li>Water Assessment and Water Body Report: Table 5-3 – Effects Associated with Road Crossings</li> <li>Construction Plan Report: Table 3-4 – Mitigation Measures, Residual Effects and Monitoring Plans: Surface Water and Groundwater</li> </ul>

Issue/Value	Response	Corresponding Report and Section
	<p>suspend work during storm events to avoid excessive flows of sediment discharges.</p> <ul style="list-style-type: none"> <li>▪ Direct discharged water to an appropriately sized energy dissipating outlet device to prevent erosion at the point of discharge.</li> </ul> <p><u>Rehabilitation</u></p> <ul style="list-style-type: none"> <li>▪ Re-vegetate and restore the turbine staging area following turbine installation with tiling (if desired by the owner).</li> <li>▪ Restore and maintain vegetative buffers around water bodies including within the foundation footprint where possible.</li> <li>▪ Restore &amp; maintain vegetative buffers around water bodies including within the temporary construction areas.</li> <li>▪ Keep vegetation removal to a minimum.</li> </ul> <ul style="list-style-type: none"> <li>• Add suitable stream substrates (e.g., gravel or rip rap) to stabilize sediment and provide cover.</li> </ul>	