



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.



F. 3 Walpole Island First Nation

Appendix

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:

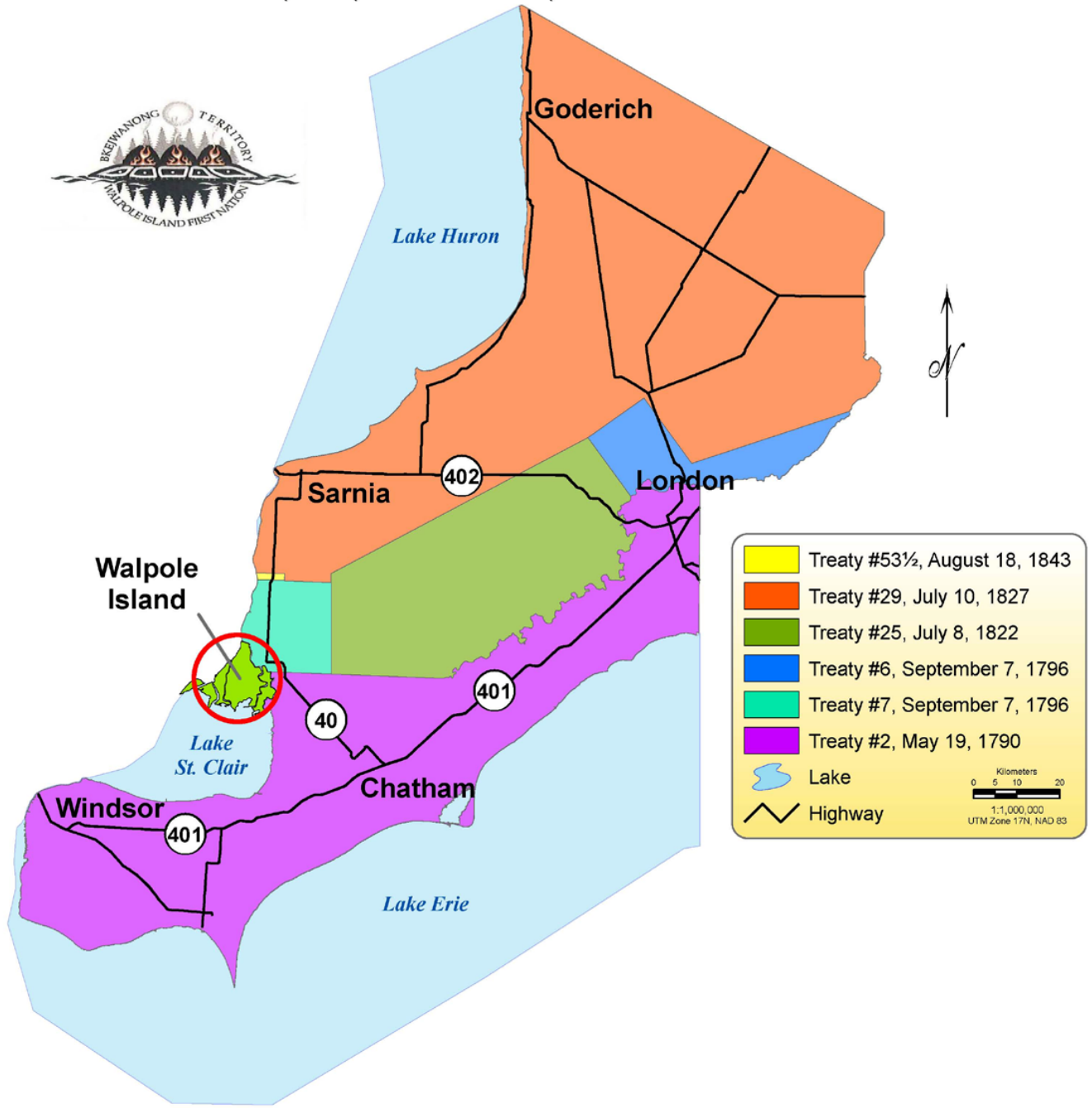
- a. The Crown and Proponent must disclose all relevant Information to WIFN Representatives as it becomes available, throughout the consultation and accommodation process.
- b. WIFN may determine whether it wishes to hold any aspect of consultation and accommodation process with the Crown, the Proponent 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.

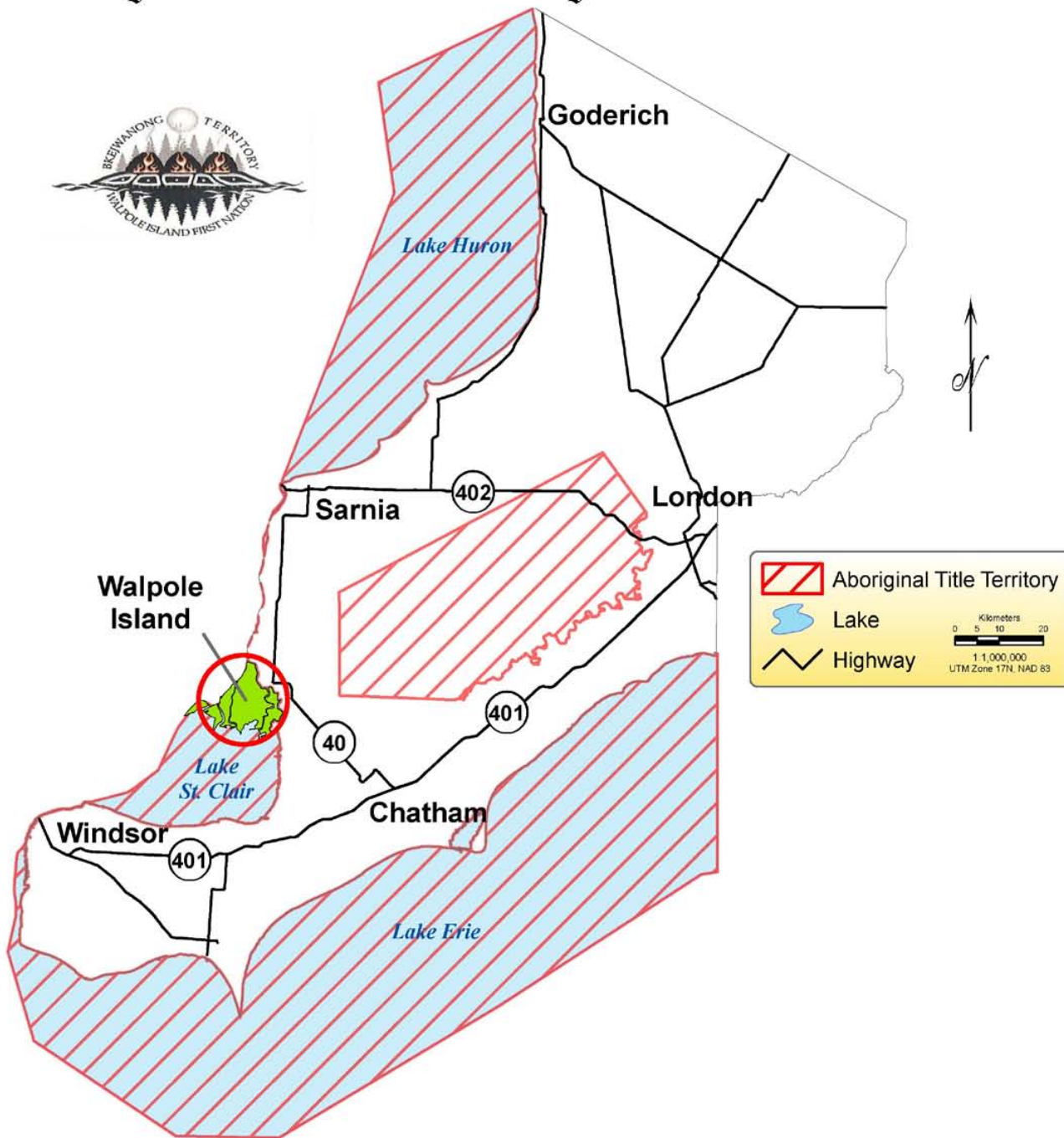
SCHEDULE A**Walpole Island First Nation's Traditional Territory (in Canada)
consists of the following lands (see also map versions in this Schedule):**

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

STAGE	TASK	DESCRIPTION / COMMENTS	WHO TO COMPLETE	DATE TO BE COMPLETED	STATUS / DATE ACTUALLY COMPLETED
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.

CONSULTATION & NEGOTIATION BUDGET		
ITEM	DESCRIPTION	EXPECTED COST
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	
TOTAL		



Appendix G
Tables of Concordance

Appendix



G.1 Kettle and Stony Point First Nation

Appendix

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Concern about impacts to terrestrial harvest species (deer mentioned) and how to assess impacts post-construction, during operations stage 	<ul style="list-style-type: none"> Potential effects to terrestrial species are addressed through the Natural Heritage Assessment. Within the Records Review Report, NextEra identified and assessed Seasonal Concentration Areas including Winter Deer Yards. Winter Deer Yards are identified by the MNR and were not identified within 120 metres of the Project Location, and as such none were carried forward to site investigation. Negative effects to deer are not anticipated as a result of the project and no post-construction monitoring is required. 	<ul style="list-style-type: none"> Natural Heritage: Records Review, Table 2 – Summary of Seasonal Concentration Areas Identified Near the Bornish Wind Energy Centre Project Area
<ul style="list-style-type: none"> Will want archaeological observer in fieldwork and for ground disturbance/excavation 	<ul style="list-style-type: none"> During field work, a fully independent First Nations monitor was supported by NextEra, who reported directly to four interested First Nations governments. The monitor was a licensed archaeologist and First Nations person. To date, the monitor's reports of field work have been positive and no concerns identified. The monitor will also be notified prior to any Stage 3 or Stage 4 field work activities, should they occur. NextEra also agreed with the monitor's recommendation to have archaeological monitoring in place for archaeological sites as follows: <ul style="list-style-type: none"> 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. 	<p>N/A</p>
<ul style="list-style-type: none"> Interest in bird/bat mortality and monitoring 	<ul style="list-style-type: none"> 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, 2011) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011). The first year results and overall program will be discussed with MNR/CWS at the end of the first year. Operational mitigation measures in the event of demonstrated significant impact to bird/bat populations will be proposed in consultation with the MNR. Construction mitigation measures to address potential bird/bat mortality include: <ul style="list-style-type: none"> Avoid placing turbines within blade length of significant natural features. Use underground cabling or single-wooded overhead poles where feasible. Propose obstruction lighting scheme that minimises risk to bird collisions while fulfilling Transport Canada requirements. 	<ul style="list-style-type: none"> Design and Operations Report: Table 5-3 – Potential Negative Effects and Mitigation Measures – Operation
<ul style="list-style-type: none"> Concerns with impact for raptors ("birds that look down") 	<ul style="list-style-type: none"> 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. One area with potential habitat for Raptor Wintering Areas was identified within 120 metres of the Project Location. Pre-construction surveys were completed following MNR approved protocol and this site was deemed not significant. Post construction monitoring for potential raptor mortality is required for all wind farms and will be completed in accordance with Ministry of Natural Resource Guidelines. 	<ul style="list-style-type: none"> Natural Heritage Environmental Impact Study: Evaluation of Significance, Table 7. Seasonal Concentration Area Evaluation of Significance
<ul style="list-style-type: none"> Mentioned seismic activity in vicinity 	<ul style="list-style-type: none"> Wind turbines are constructed to meet Canadian Standards Association (CSA) and technical standards and therefore any impacts from seismic activity are extremely remote. 	<ul style="list-style-type: none"> N/A

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Concerned about turbine vibrations affecting wildlife behaviours, especially reptiles 	<ul style="list-style-type: none"> Potential effects to reptiles 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 Hibemacula, Turtle Nesting and Overwintering Habitats. One feature that had potential habitat for snake hibemacula was identified through the Site Investigation; however, this site was surveyed following protocol accepted by the MNR and determined to be not significant. These areas did not warrant specific consideration within the Environmental Impact Study. Site-specific field surveys were conducted to examine habitat types within 120 m of the Project Location. No suitable turtle nesting or overwintering habitats were identified, and therefore did not require specific mitigation measures. 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. 	<ul style="list-style-type: none"> Natural Heritage Environmental Impact Study: Table 4 – Summary of Significant Natural Features and Wildlife Habitat within 120 m of the Bornish Wind Energy Centre
<ul style="list-style-type: none"> Concerned about visual impacts for their golf course operations Show Stony Point and Ipperwash as separate communities on mapping. 	<ul style="list-style-type: none"> The closest turbine from the Bornish Wind Energy Centre is approximately 20 km from the Indian Hills Golf Club. As such, no visual effects from the Project are anticipated. Any required mapping will show separate communities. 	<ul style="list-style-type: none"> N/A N/A
<ul style="list-style-type: none"> Concern about presence of transformers if in proximity to residences 	<ul style="list-style-type: none"> The transformer substation location will abide by noise level limits (less than 40 dBA at non-participating receptors) prescribed by the Ministry of the Environment. Also, the closest turbine is approximately 22 kilometres away from Kettle and Stony Point First Nation. 	<ul style="list-style-type: none"> Noise Impact Assessment: Section 5.3 – Noise Emission Rating of the Substation Transformer and Section 7.1 – Results
<ul style="list-style-type: none"> Experience with Sky Generation wind farm (immediately adjacent to community) <ul style="list-style-type: none"> Interference with TV reception (mitigation - cable TV paid for) Concerns about interference with emergency services radio, cell phones and community radio Shadow flicker in some homes (mitigation - heavy curtains) 	<ul style="list-style-type: none"> 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 is approximately 22 km to the Chippewas of Kettle and Stony Point community, as such; effects from shadow flicker are not anticipated. 	<ul style="list-style-type: none"> N/A
<ul style="list-style-type: none"> Many interruptions to Hydro service during Sky Gen construction were seen as related - concern for a community member who is on a respirator 	<ul style="list-style-type: none"> No interruptions in electrical service are anticipated during the construction of the facility. 	<ul style="list-style-type: none"> N/A
<ul style="list-style-type: none"> Will the lights on the turbines cause confusion for lake fishermen who use shoreline lights for navigation? 	<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> N/A



G.2 Munsee-Delaware First Nation

Appendix

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> • Potential Impacts to Terrestrial Species, with the following mentioned specifically: <ul style="list-style-type: none"> ▪ Deer ▪ Squirrels and chipmunks ▪ Raccoons ▪ Rabbit 	<ul style="list-style-type: none"> • Potential effects to terrestrial species are discussed in the rows below with corresponding Report/Section references provided. • Potential effects to terrestrial species are addressed through the Natural Heritage Assessment. Within the Records Review Report, NextEra identified and assessed Seasonal Concentration Areas including Winter Deer Yards. Winter Deer Yards are identified by the MNR and were not identified within 120 metres of the Project Location, and as such none were carried forward to site investigation. Negative effects to deer are not anticipated as a result of the project and no post-construction monitoring is required. • In general, the effects to terrestrial species are anticipated to be non-significant with the implementation of the recommended mitigation measures and monitoring commitments for the following effects: <ul style="list-style-type: none"> • <u>Direct vegetation removal – significant woodlands, wetlands and valleylands</u>. Mitigation measures include: <ul style="list-style-type: none"> ▪ Detailed vegetation inventory of species and abundance to be removed within significant natural features or wildlife habitats to confirm no rare species will be removed. ▪ Re-planting using an area ratio of 1:1 of similar species association (native species) if area removed was greater than 1% of the woodland cover. ▪ Clearly delineate work area within 30 m of significant natural features or wildlife habitats using erosion fencing, or similar barrier, to avoid accidental damage to species to be retained. ▪ Any vegetation removal required along roadside collector lines or transmission lines should be minimized and occur completely within the road right of way where possible. ▪ Any tree limbs or roots that are accidentally damaged by construction activities will be pruned using proper arboricultural techniques. ▪ No vegetation removal will occur in rare plant communities. • <u>Disturbance of local wildlife – significant woodlands, wetlands and valleylands</u>. Mitigation measures include: <ul style="list-style-type: none"> ▪ Avoid vegetation removal within 30 m of a significant natural feature during the breeding bird period (May 1st – July 15th), or hire a biologist to conduct nest searches prior to vegetation removal. ▪ Construction activities within 30 m of significant natural features or wildlife habitats should occur during daylight hours to avoid excessive noise and/or light at night. • <u>Sedimentation and erosion – significant woodlands, wetlands and valleylands</u>. Mitigation measures include: <ul style="list-style-type: none"> ▪ Implement a sediment and erosion control plan within 30 m of a significant natural feature or wildlife habitat. ▪ Install, monitor, and maintain erosion and sediment control measures (i.e. silt fences) around the construction areas within 30 m of a significant natural feature or wildlife habitat. ▪ Schedule grading to avoid times of very high runoff volumes, wherever possible. • <u>Spills (i.e. oil, gasoline, grease, etc.) – significant woodlands, wetlands and valleylands</u>. Mitigation measures include: <ul style="list-style-type: none"> ▪ All maintenance activities, vehicle refueling or washing, and chemical storage will be located more than 30 m from any significant natural feature or wildlife habitat. ▪ Develop a spill response plan and train staff on appropriate procedures. ▪ Keep emergency spill kits on site. ▪ Dispose of waste material by authorized and approved offsite vendors. 	<ul style="list-style-type: none"> • N/A • Natural Heritage: Records Review, Table 2 – Summary of Seasonal Concentration Areas Identified Near the Bornish Wind Energy Centre Project Area • Construction Plan Report: Table 3-2 – Potential Negative Effects and Mitigation Measures – Construction • Design and Operations Report: Table 5-3: Potential Negative Effects and Mitigation Measures – Operations • Environmental Impact Study: Section 9.0

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Potential Impacts to Avian Species, with the following mentioned specifically: <ul style="list-style-type: none"> Turkeys 	<ul style="list-style-type: none"> Application of herbicides. Mitigation measures include: <ul style="list-style-type: none"> Only apply herbicides when wind speeds are low and no significant precipitation is expected. Only use herbicides approved for use adjacent to water bodies, riparian buffers, or woodland edges. Only hand spraying of herbicides will be permitted within riparian buffer areas. Potential effects to avian species, including turkey, are discussed in the rows below with corresponding Report/Section references provided. 1 Wild Turkey was observed during the 2011 field studies, during the summer surveys. Effects to turkeys from direct collision with turbines are not anticipated as they generally travel by ground or fly well below blade height. NextEra will develop and implement a monitoring program for bird mortality consistent with <i>Birds and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011). The first year results and overall program will be discussed with MNR/CWS at the end of the first year. Operational mitigation measures in the event of demonstrated significant impact to bird/bat populations will be proposed in consultation with the MNR. <ul style="list-style-type: none"> Construction mitigation measures to address potential bird/bat mortality include: <ul style="list-style-type: none"> Avoid placing turbines within blade length of significant natural features. Use underground cabling or single-wooded overhead poles where feasible. Propose obstruction lighting scheme that minimises risk to bird collisions while fulfilling Transport Canada requirements. 	<ul style="list-style-type: none"> N/A N/A Design and Operations Report: Table 5-3 – Potential Negative Effects and Mitigation Measures – Operation
<ul style="list-style-type: none"> Potential Impacts to watercourses that may support harvestable aquatic species 	<ul style="list-style-type: none"> Effects on fish habitat were assessed as part of the Water Assessment and Water Body Report. With the implementation of the recommended mitigation measures, residual effects are anticipated to be non-significant. Mitigation measures to address potential fish habitat alteration/loss/disruption include: <ul style="list-style-type: none"> Consideration of design layout to minimize number of crossings. Consideration of layout distances to water body features and sensitivity of those features. Crossing locations should be selected as to avoid key habitat features (i.e. refuge pool) and cross the feature within a straight reach of the channel as to avoid meanders etc. and cross perpendicular where possible. Crossing structures should be designed to reduce loss and alterations of habitat where possible (i.e. reduces affected area by cutting back from grading limit to road and install headwall, open bottom culvert etc.). Crossing structure should be properly sized and positioned appropriately (angle and embedded) as to avoid erosion issues and creation of potential fish barriers. Crossing structures should be sized appropriately according to municipal engineering standards as to not result in alterations in stream hydrology, scouring or flooding crossing structures. Crossing structure type should be determined in consultation with agency and municipality staff and should consider sensitivity of the water body and location of crossing. Implement trenchless (i.e. directional drilling) technology at crossings where possible. Any loss to the productive capacity of a watercourse must be compensated for under the Fisheries Act. Restrict construction to warmwater timing windows (July 1– March 3), as indicated by local MNR. Work in the dry (i.e. low flow) or isolate work area using good engineering practices or by working in dry conditions using accepted methods to bypass flows. 	<ul style="list-style-type: none"> Construction Plan Report: Table 3-2 – Potential Negative Effects and Mitigation Measures – Construction

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Potential impact to habitat that may support harvestable plant species or to the plants themselves. 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. 	<ul style="list-style-type: none"> Machinery should be operated in a manner that minimizes disturbance to the banks and bed of the watercourse. <ul style="list-style-type: none"> Stabilize banks as soon as possible after construction disturbance (i.e. plantings, rock etc). The Project is sited predominantly on agricultural fields. 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. <ul style="list-style-type: none"> Detailed vegetation inventory of species and abundance to be removed within significant natural features or wildlife habitats to confirm no rare species will be removed. Re-planting using an area ratio of 1:1 of similar species association (native species) if the area removed was greater than 1% of the woodland cover. Clearly delineate work area within 30 m of significant natural features or wildlife habitats using erosion fencing, or similar barrier, to avoid accidental damage to species to be retained. Any vegetation removal required along roadside collector lines or transmission lines should be minimized and occur completely within the road right of way where possible. Any tree limbs or roots that are accidentally damaged by construction activities will be pruned using proper arboricultural techniques. No vegetation removal will occur in rare plant communities. NextEra will also monitor the success of any re-vegetated areas three (3) times during the first year, and once in each of the next 2 years. Any unsuccessful plantings noted on (or before) assessment within the second year will be re-planted. 	<ul style="list-style-type: none"> Construction Plan Report: Section 2.13 – Clean-up and Reclamation Strategy Construction Plan Report: Table 3-2: Potential Negative Effects and Mitigation Measures – Construction
<ul style="list-style-type: none"> Archaeology 	<ul style="list-style-type: none"> The archaeological studies were conducted by licensed archaeologists according to Ministry of Tourism, Culture and Sport standards. The initial Stage 2 field assessments conducted in 2009 and 2010 identified a total of 30 archaeological sites, including 27 pre-contact Aboriginal sites and three historic-Euro-Canadian sites. Since the wind farm layout has changed since these investigations, only five of these sites are in areas to be affected by the wind farm construction. Further study has been recommended for two of the pre-contact Aboriginal sites. One is a large scatter of artifacts with a Netting projectile point which is of cultural heritage value or interest. The other is also a large scatter of artifacts with a Brewerton Corner-Notched projectile point which is also of cultural heritage value or interest. Once the wind farm layout was modified, additional Stage 2 field assessments addressing the current layout was conducted between June 20, 2011 and January 12, 2012 identifying a total of 36 archaeological sites. These included 17 pre-contact Aboriginal sites, 18 historic Euro-Canadian sites and 1 multi-component site. Twenty three of the 36 sites were recommended for further Stage 3 archaeological assessments. One of the Aboriginal sites was identified as two projectile points (a Brewerton Side-Notched projectile point and a Crawford Knoll projectile point) and another as a unique multi-tool, both of which warrant further study. The remaining sites where further study was recommended consist of 16 Euro-Canadian sites where more than 20 artifacts dating prior to 1900 were identified, one multi-component site where more than 20 artifacts dating prior to 1900 were identified, and four other Aboriginal sites where more than 10 artifacts within the survey areas were identified thus lending cultural heritage value or interest to the site. Aboriginal groups will also be engaged concerning the recommended Aboriginal sites. 	<ul style="list-style-type: none"> Stage 2 Archaeological Assessment Report: Section 1.2.2 – Previously Known Archaeological Sites and Surveys; Section 4.0 – Analysis and Conclusions; Section 5.0 – Recommendations

Issue/Value	Response	Corresponding Report and Section
	<ul style="list-style-type: none"> During field work, a fully independent First Nations monitor was supported by NextEra, who reported directly to four interested First Nations governments. The monitor was a licensed archaeologist and First Nations person. To date, the monitor's reports of field work have been positive and no concerns identified. The monitor will also be notified prior to any Stage 3 or Stage 4 field work activities, should they occur. 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. 	<ul style="list-style-type: none"> N/A



G.3 Walpole Island First Nation

Appendix

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> No net loss approach, if not habitat/species enhancements - Walpole Island FN seen as a central "hub", for enhancement/restoration/protection within the TT 	<ul style="list-style-type: none"> NextEra will restore temporary work areas following the construction phase. Stripped topsoil will be replaced and re-contoured 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. Detailed vegetation inventory of species and abundance to be removed within significant natural features or wildlife habitats to confirm no rare species will be removed. Re-planting using an area ratio of 1:1 of similar species association (native species) if the area removed was greater than 1% of the woodland cover. Clearly delineate work area within 30 m of significant natural features or wildlife habitats using erosion fencing, or similar barrier, to avoid accidental damage to species to be retained. Any vegetation removal required along roadside collector lines or transmission lines should be minimized and occur completely within the road right of way where possible. Any tree limbs or roots that are accidentally damaged by construction activities will be pruned using proper arboricultural techniques. NextEra will also monitor the success of any re-vegetated areas three (3) times during the first year, and once in each of the next 2 years. Any unsuccessful plantings noted on (or before) assessment within the second year will be re-planted. 	<ul style="list-style-type: none"> Construction Plan Report: Section 2.13 – Clean-up and Reclamation Strategy Construction Plan Report: Table 3-2: Potential Negative Effects and Mitigation Measures – Construction Environmental Impact Study: Section 9.0
<ul style="list-style-type: none"> Walpole has an archaeology master plan. They would like to see it's values and approach extended throughout TT 	<ul style="list-style-type: none"> 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>. NextEra consulting archaeologists are also required to comply with the NextEra Energy Canada, ULC Ontario Projects Archaeological Protocol. 	<ul style="list-style-type: none"> Stage 2 Archaeological Assessment Report: Section 1.0 – Project Context; Section 2.0 – Field Methods; and Supplementary Document C – Aboriginal Engagement
<ul style="list-style-type: none"> Archaeology monitors to be used and archaeologists to speak with Director of Walpole Heritage Centre prior to work 	<ul style="list-style-type: none"> The archaeological studies were conducted by licensed archaeologists according to Ministry of Tourism, Culture and Sport standards. The initial Stage 2 field assessments conducted in 2009 and 2010 identified a total of 30 archaeological sites, including 27 pre-contact Aboriginal sites and three historic-Euro-Canadian sites. Since the wind farm layout has changed since these investigations, only five of these sites are in areas to be affected by the wind farm construction. Further study has been recommended for two of the pre-contact Aboriginal sites. One is a large scatter of artifacts with a Netting projectile point which is of cultural heritage value or interest. The other is also a large scatter of artifacts with a Brewerton Corner-Notched projectile point which is also of cultural heritage value or interest. Once the wind farm layout was modified, additional Stage 2 field assessments addressing the current layout was conducted between June 20, 2011 and January 12, 2012 identifying a total of 36 archaeological sites. These included 17 pre-contact Aboriginal sites, 18 historic Euro-Canadian sites and 1 multi-component site. Twenty three of the 36 sites were recommended for further Stage 3 archaeological assessments. One of the Aboriginal sites was identified as two projectile points (a Brewerton Side-Notched projectile point and a Crawford Knoll projectile point) and another as a unique multi-tool, both of which warrant further study. The remaining sites where further study was recommended consist of 16 Euro-Canadian sites where more than 20 artifacts dating prior to 1900 were identified, one multi-component site where more than 20 artifacts dating prior to 1900 were identified, and four other Aboriginal sites where more than 10 artifacts within the survey areas were identified thus lending cultural heritage value or interest to the site. Aboriginal groups will also be engaged concerning the recommended Aboriginal sites. 	<ul style="list-style-type: none"> Stage 2 Archaeological Assessment Report: Section 1.2.2 – Previously Known Archaeological Sites and Surveys; Section 4.0 – Analysis and Conclusions; Section 5.0 – Recommendations

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Focus on SAR 	<ul style="list-style-type: none"> During field work, a fully independent First Nations monitor was supported by NextEra, who reported directly to four interested First Nations governments, including Walpole Island First Nation. The monitor was a licensed archaeologist and First Nations person. To date, the monitor's reports of field work have been positive and no concerns identified. The monitor will also be notified prior to any Stage 3 or Stage 4 field work activities, should they occur. 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. NextEra has confirmed that the consulting archaeologist and independent First Nations Archaeology monitor have spoken with the Director of the Heritage Centre. Due to the sensitive nature of Species at Risk, they are not identified in the Environmental Impact Study Report, as part of the Natural Heritage Assessment. Species At Risk and their habitats potentially occurring within the Study Area are being identified through site investigations, background research and in consultation with the Ministry of Natural Resources. To date, three Species At Risk, all birds, were identified during the 2011 field studies; two of which were present in suitable breeding habitat within the Project Area. Potential effects to these species will be addressed through a Species at Risk Report and submitted to the Ministry of Natural Resources to determine if a permit is required. An Endangered Species Act permit is required if the proposed works will have an adverse effect on a protected species or its habitat. Any required permits will be obtained from the Ministry of Natural Resources prior to commencing construction and any required mitigation measures or monitoring commitments will be implemented. 	<ul style="list-style-type: none"> N/A
<ul style="list-style-type: none"> Potential impacts to Tundra Swans 	<ul style="list-style-type: none"> A wide variety of background information has been reviewed as part of this project, including information from the Ministry of Natural Resources (MNR), Conservation Authorities, Municipalities, and previous studies conducted within the Project Area. Waterfowl Staging Areas, which include those used by Tundra Swans, have been considered as part of the Natural Heritage Assessment conducted for this project. For specific details and corresponding report/section regarding tundra swan, please refer to the row below. Significant habitat for staging tundra swans was identified outside of the Project Area; none was identified within the Project Area. No significant waterfowl staging areas, including those for Tundra Swans, have been identified within 120 m of the Project Location, and therefore do not require specific consideration in the Environmental Impact Study. NextEra will develop and implement a monitoring program for bird mortality consistent with <i>Birds and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011). <ul style="list-style-type: none"> The first year results and overall program will be discussed with MNR/CWS at the end of the first year. Operational mitigation measures in the event of demonstrated significant impact to bird populations will be proposed in consultation with the MNR. 	<ul style="list-style-type: none"> N/A
		<ul style="list-style-type: none"> Site Investigation Report: Table 12
		<ul style="list-style-type: none"> Design and Operations Report: Table 5-3 – Potential Negative Effects and Mitigation Measures – Operation

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Potential impacts to migratory bird or fish species that may be harvested or support tourism (hunting and fishing) 	<ul style="list-style-type: none"> Effects on fish habitat were assessed as part of the Water Assessment and Water Body Report. With the implementation of the recommended mitigation measures, residual effects are anticipated to be non-significant. Mitigation measures to address potential fish habitat alteration/loss/disruption include: <ul style="list-style-type: none"> Consideration of design layout to minimize number of crossings. Consideration of layout distances to water body features and sensitivity of those features. Crossing locations should be selected as to avoid key habitat features (i.e. refuge pool) and cross the feature within a straight reach of the channel as to avoid meanders etc. and cross perpendicular where possible. Crossing structures should be designed to reduce loss and alterations of habitat where possible (i.e. reduces affected area by cutting back from grading limit to road and install headwall, open bottom culvert etc.). Crossing structure should be properly sized and positioned appropriately (angle and embedded) as to avoid erosion issues and creation of potential fish barriers. Crossing structures should be sized appropriately according to municipal engineering standards as to not result in alterations in stream hydrology, scouring or flooding crossing structures. Crossing structure type should be determined in consultation with agency and municipality staff and should consider sensitivity of the water body and location of crossing. Implement trenchless (i.e. directional drilling) technology at crossings where possible. Any loss to the productive capacity of a watercourse must be compensated for under the Fisheries Act. Restrict construction to warmwater timing windows (July 1 – March 3), as indicated by local MNR. Work in the dry (i.e. low flow) or isolate work area using good engineering practices or by working in dry conditions using accepted methods to bypass flows. Machinery should be operated in a manner that minimizes disturbance to the banks and bed of the watercourse. Stabilize banks as soon as possible after construction disturbance (i.e. plantings, rock etc). 	<ul style="list-style-type: none"> Construction Plan Report: Table 3-2 – Potential Negative Effects and Mitigation Measures – Construction
	<ul style="list-style-type: none"> Potential effects to migratory birds are addressed through the Environmental Impact Study Report as part of the Natural Heritage Assessment. Within the Report, NextEra identified and assessed Candidate Significant Wildlife Habitats including Waterfowl Stopover and Staging Areas and Shorebird Migratory Stopover Areas; neither of which have significant habitat within the Project Area No Significant 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 not carried forward to the Environmental Impact Study. Construction mitigation measures to address potential bird mortality include: <ul style="list-style-type: none"> Avoid placing turbines within blade length of significant natural features. Use underground cabling or single-wooded overhead poles where feasible. Propose obstruction lighting scheme that minimises risk to bird collisions while fulfilling Transport Canada requirements. Post-construction mortality studies are required for all wind energy projects in Ontario. Details of the monitoring protocol will follow the MNR's document <i>Bird and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, 2011). Should the mortality studies indicate significant impacts to bird populations, operational mitigation measures will be proposed in consultation with the MNR. 	<ul style="list-style-type: none"> Design and Operations Report: Table 5-3 – Potential Negative Effects and Mitigation Measures – Operation Natural Heritage Records Review: Table 2: Summary of Seasonal Concentration Areas Identified Near the Bornish Wind Energy Centre Project Area Natural Heritage Site Investigation Report: Table 12: Summary of Seasonal Concentration Areas Not Requiring Specific Evaluation of Significance Surveys



Appendix

Appendix H
Chronologies of Contacts with Aboriginal Communities



H.1 Aamjiwnaang First Nation

Appendix

Contact Record

Projects: **Adelaide, Bornish, Bluewater, Goshen and Jericho Wind Energy Centres**

Community: **Chippewas of Aamjiwnaang** Main Contact: Chief Chris Plain
Sharilyn Johnston,
Environmental Officer

NextEra Energy Canada ULC (“NEEC”) proposes to develop, construct and operate a number of wind energy projects in Ontario. This report details all communications with the Aboriginal community identified above, in support of the Ontario Regulation 359/09 Renewable Energy Approval requirement for consulting with Aboriginal peoples. Information is current to the date shown at the bottom of this report. Please contact NEEC for clarification or to receive any available updates.

The projects for which this Aboriginal community has expressed interest, or that have been confirmed by the Director of Renewable Energy Approvals “list of aboriginal communities” are identified above. Please refer to the Project Description Reports and supporting reports as set out in Table 1 of Ontario Regulation 359/09 for information about these projects, potential impacts and proposed mitigation. All available reports may be found at:

<http://www.NextEraEnergyCanada.com>

- **Adelaide** Wind Energy Centre
- **Bluewater** Wind Energy Centre
- **Bornish** Wind Energy Centre
- **Goshen** Wind Energy Centre
- **Jericho** Wind Energy Centre

*Please note that this report summarizes all communications related to this Aboriginal Community, which may include more than one NEEC project. Such an overview is important because information-sharing and knowledge-building about wind energy, as well as relationship building with communities takes place across all projects. This report is therefore an overall summary of contacts with this Aboriginal community, their purpose and content. **Issues that are specific to a single project, however, are identified, discussed and reported in the individual project Aboriginal Consultation report, which forms part of NEEC’s Renewable Energy Application under Ontario Regulation 359/09.***

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
Late 2007	NEEC	Band Administration	Initial contact to introduce NEEC (then FPLE) and its projects in Lambton, Middlesex and Huron Counties. This would have included Bornish and the then current Canadian Green Power Projects.	<ul style="list-style-type: none"> Initial contact 	Meeting planned for January 24, 2008 at the Four Winds Centre, Kettle and Stoney Point First Nation.
2008-01-29	M. DeBock, Project Director, NEEC (then FPLE Canadian Wind LP)	Chief Plain	Letter sent to Chief Plain: <ol style="list-style-type: none"> enclosing copy of presentation intended to be given at the January 24th meeting; offering to continue dialogue; Enclosing public notices and inviting attendance at Public Information Centres of February 19 and 20, 2008 and offering to meet on those dates, or at another time. Advising that a second public information centre will be held after completion of the environmental studies 	<ul style="list-style-type: none"> Communication 	An introductory meeting was scheduled for January 24, 2008 at the Four Winds Centre, Kettle Point First Nation. The invited First Nations representatives were not able to attend. Jason Henry (Genivar) to follow-up to schedule another meeting.
2009-06	Golder/TCi	Chief Plain	Copy of Notice of Completion for Adelaide sent.	<ul style="list-style-type: none"> Communication Regulatory compliance 	
2009-10-26	Ben Greenhouse	Chief Plain	Letter enclosing copies of draft REA Table 1 reports and executive summary as per s. 17 REA, requesting comments on the Bornish project.	<ul style="list-style-type: none"> Regulatory compliance 	

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2009-10-27	David Miller, MWA	Sharilyn Johnston, Environment Officer	Delivery of 2009-10-26 letter re. Bornish to Chief Plain and enclosures. Discussed the possibility of a presentation to Environmental and Health Committee at its scheduled meeting on November 9, 2009. Discussion regarding third party review of Table 1 documents for each component and whether a joint review with other communities who assert traditional territory is possible.	<ul style="list-style-type: none"> • Communication • Process 	Aamjiwnaang Health and Environment Committee is interested in hiring a 3 rd party to conduct a review of the REA documents.
2009-10-30	Sharilyn Johnston	David Miller	Submission of quote from Sharilyn re: 3rd party external review for Bornish . Concerned with a shared review between communities.	<ul style="list-style-type: none"> • Process 	Forwarded quote to Ben Greenhouse (2009-11-16).
2009-11-09	Ben Greenhouse, NEEC Merve McLeod, MWA David Miller, MWA Sunil Kumar, Genivar	Aamjiwnaang Health and Environment Committee	Presentation to Health and Environment Committee about Bornish Wind Farm and NEEC in general.	<ul style="list-style-type: none"> • Information-sharing 	
2009-11-20	Tom Bird, NEEC	Chief Plain	Letter mailed enclosing Bornish notice of application for Renewable Energy Approval and December 7 Public Information Centre.	<ul style="list-style-type: none"> • Regulatory compliance • Communication 	

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2009-11-25	David Miller, MWA	Sharilyn Johnston	Called to discuss the ongoing stage 2 archaeological work. Concerns about lack of First Nations participation in the work.	<ul style="list-style-type: none"> Information-sharing 	Set up a meeting with ASI so Sharilyn could speak directly with the field team about the work.
2009-12-09	David Miller, MWA	Sharilyn Johnston	E-mail explaining NEEC is concerned about the high cost of the independent consultant review.	<ul style="list-style-type: none"> Communication 	
2010-12-22	Ben Greenhouse	Sharilyn Johnston	E-mail concerning the misunderstanding about costs for an independent review of the Bornish REA documentation. Lack of pre-approval for third party review, no terms of reference and costs	<ul style="list-style-type: none"> Communication 	Scope of work and budget agreed to 2010-01-06
2010-01-06	David Miller, Bob Waldon	Sharilyn Johnston	Met in person to discuss Ben Porchuk's review of Bornish . His report included: <ul style="list-style-type: none"> Health issues impacts on birds, bats, and bees role of First Nations people in the project <p>We clarified the process for reviewing and accepting Ben Porchuk's report.</p>	<ul style="list-style-type: none"> Communication Process 	A meeting between project experts, Bob, David, Sharilyn, and Ben Porchuk is being arranged (Jan 15 tentative). The meeting would be to ensure a common understanding of the issues and provide any additional information that may be required.

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2010-01-18	David Miller, Bob Waldon Dave Martin Allison Featherstone	Sharilyn Johnston Courtney Jackson Ben Porchuk, Wilson Plain Jr.	Meeting to review the Ben Porchuk draft report on Bornish , clarify any information, provide additional information and agree on next steps. Additional information was provided on environmental evaluations by Allison Featherstone of LGL and Dave Martin (see 2010-01-28, below). After the report review, the forthcoming Adelaide Public Open House was discussed with Sharilyn Johnston.	<ul style="list-style-type: none"> • Information-sharing • Communication 	Ben Porchuk report to be updated as a final, submitted to NEEC through Aamjiwnaang and the Health and Environmental Committee will make recommendations to Council.
2010-01-25	Ben Greenhouse	Chief Plain	Letter requesting comments on the Bornish Wind Energy Centre, as per s. 17 of REA	<ul style="list-style-type: none"> • Regulatory compliance 	Letter delivered electronically 2010-02-01
2010-01-28	Terrence Rasmussen	Ben Porchuk	Letter from GENIVAR to follow-up meeting of 2010-01-18 about Bornish with additional information on avian natural heritage assessment report.	<ul style="list-style-type: none"> • Information-sharing 	

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2010-02-17	David Miller, MWA	Sharilyn Johnston, Environment Officer	<p>Received the final Ben Porchuk report on Bornish and called Sharilyn to discuss it.</p> <ul style="list-style-type: none"> As a result of the final report on the Bornish project, the Health and Environment Committee will not be making a submission to Chief and Council. As a result, a community meeting is not likely required. The Health and Environment committee may also review the Adelaide project through the framework outlined in the Porchuk report. 	<ul style="list-style-type: none"> Process - (Bornish not being taken to Council) 	<p>NEEC to set up a meeting to hold discussion on issues outside of the REA requirements, such as employment.</p> <p>Continue to discuss archaeological protocol.</p> <p>All Aboriginal communities also have access to make comments, if any, through the REA approval process when a decision is posted on the EBRO.</p>
2010-02-24	Sharilyn Johnston	Ben Greenhouse	<p>Letter explaining that as a result of the 3rd party review report:</p> <ul style="list-style-type: none"> Aamjiwnaang ("AFN") wishes to be fully engaged in the REA. AFN submitted comments through the independent reviewer's report and at this time have no further concerns regarding the documentation but expect continued consultation and engagement and to be fully informed during the process. We would also expect the opportunity to be involved in any archeological work that continues in the area or in any area that AFN has expressed their interest in. 	<ul style="list-style-type: none"> Process Communication 	<p>NEEC will advise Aamjiwnaang of the schedule for the archaeological field work and determine if a community observer or designated liaison person is required by the community.</p> <p>NEEC will maintain ongoing communications with all Aboriginal communities who wish to be kept informed about the Project.</p>
2010-03-25	David Miller, MWA	Sharilyn Johnston	<p>E-mail offering to arrange a meeting with the archeologists for Bornish and asking if Aamjiwnaang wishes to have a field monitor/observer.</p>	<ul style="list-style-type: none"> Process Communication 	

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2010-03-31	David Miller, MWA	Sharilyn Johnston	Met in person and asked about Aamjiwnaang's interest in sending a field monitor/observer.	<ul style="list-style-type: none"> Process Communication 	Sharilyn to contact David and discuss on April 6th.
2010-04-01	David Miller, MWA	Sharilyn Johnston	E-Mail providing contact information for archeology field manager and Walpole Island observer.	<ul style="list-style-type: none"> Communication 	
Dated as of 2010-06-04	Nicole Geneau	Sharilyn Johnston	Community Reference binder with draft project description reports for Bluewater , Goshen and Jericho and a map of all current NEEC southwestern Ontario projects.	<ul style="list-style-type: none"> Information-sharing 	<ul style="list-style-type: none"> The binder and letter were delivered at a meeting with Sharilyn Johnson on June 15, 2010.
2010-06-15	R. Waldon	Sharilyn Johnston	Initial meeting to deliver Community Resource Binder and introduce Bluewater , Goshen and Jericho projects. Discussions of potential improvements to successful process followed for Bornish to be considered on further projects.	<ul style="list-style-type: none"> Communication Process 	<ul style="list-style-type: none"> Bluewater, Jericho and Goshen were discussed in very general terms, with ideas shared for planning the procedural consultation including how Aboriginal values and interests may be reflected in the natural heritage and archaeological work.

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2010-06-16	R. Waldon	Sharilyn Johnston, Environment Officer	<p>E-mail confirming follow-up actions from 2010-06-15 meeting.</p> <ul style="list-style-type: none"> We reviewed the NextEra Community Reference Binder. Sharilyn felt it will be a useful basic information source. Council elections to take place in July. Current council members on Health and Environment Committee are Vicki Ware, Darren Henry and Ron Simon. A new consultation and accommodation protocol has been adopted in principle, but is subject to final approval (possibly June 22). The final approved version will be made available for proponent use. Archaeology for Bluwater, Goshen and Jericho: Sharilyn suggested a one day orientation meeting for Aamjiwnaang Health and Environment Committee members. If other communities send a full time observer, NextEra will ask permission to share their wrap up report with all interested communities. No specific Aboriginal values to be reported to Golder to address in REA studies, at this time. An Aamjiwnaang Values document may be available in future. 	<ul style="list-style-type: none"> Communication Process Information-sharing 	<ul style="list-style-type: none"> Sharilyn will look at the Adelaide ESR prepared by Golder for TCi and advise of any questions or additional information requirements. Bob agreed to recommend Archaeology field day to NextEra, including if it can be offered to all interested communities. (Done) Agreed with concept of plain language summaries to accompany REA studies. (Required by REA) Sharilyn to send Aamjiwnaang traditional territory map. Bob to ensure archeology observer's report(s) from Bornish are forwarded to Sharilyn. (Permission requested.) For community notices, keep the weekly Aamjiwnaang Tribune in mind
2010-08-10	Sharilyn Johnston	R. Waldon	<p>Consultation and Accommodation Protocol received. It is a new protocol outlining Aamjiwnaang process for consultation and important principles to be upheld, including the roles of the three main parties: Aamjiwnaang; Crown and proponent.</p>	<ul style="list-style-type: none"> Process 	<ul style="list-style-type: none"> Review process for Adelaide, Bluwater, Goshen and Jericho.

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2010-10-19	R. Waldon	Sharilyn Johnston	<p>Update e-mail to confirm status of projects and follow-up on items from June 15th meeting.</p> <ul style="list-style-type: none"> • Awaiting permission from Chief Cloud to release Brandy George observer's report. • Bornish and Adelaide filings pending agency sign-offs of studies. • Bluewater, Goshen and Jericho archaeology next season. Orientation day idea still planned. • Requested an update on Aamjiwnaang Aboriginal values statement. • Is any further information needed for Adelaide? 	<ul style="list-style-type: none"> • Communication 	N/A
2010-10-26	R. Waldon	Sharilyn Johnston	<p>Update on Bluewater, Goshen and Jericho archaeology</p> <ul style="list-style-type: none"> • Possibility of field work in 2 weeks • Does Aamjiwnaang want to have a field day arranged? 	<ul style="list-style-type: none"> • Communication • Process 	No reply was received.
2010-11-03	Sharilyn Johnston	R. Waldon	<p>Follow-up e-mail contact to confirm where we are in Adelaide consultation process.</p> <ul style="list-style-type: none"> • Has Aamjiwnaang made a determination under Step 2 of their protocol, whether further consultation is required? 	<ul style="list-style-type: none"> • Process 	See 2011-03-24
2010-11-10	Ben Greenhouse	Chief Plain	Letter enclosing Adelaide draft Addendum report and EIA as per s. 17.	<ul style="list-style-type: none"> • Regulatory compliance 	See 2011-03-24
2011-03-14	R. Waldon	Sharilyn Johnston	E-mail concerning archaeological work for Bluewater, Goshen and Jericho . Invitation to attend a field meeting prior to work and to confirm monitoring arrangements.	<ul style="list-style-type: none"> • Communication 	No reply was received.

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2011-03-24 2011-04-28	Sharilyn Johnston	Ben Greenhouse	Letter dated March 24, 2011 received April 28, 2011 thanking Ben for information concerning Adelaide wind project and that advising that the information will be forwarded to Chief and Council over the next few weeks and after receiving their direction NextEra will be contacted with advice on the next steps. The letter further stated Aamjiwnaang First Nation continue to assert their Aboriginal and treaty rights over their reserve and traditional territory.	<ul style="list-style-type: none"> Process 	See "Joint Assessment Committee" process described below (2012-04-23).
2011-05-24	R. Waldon	Sharilyn Johnston	E-Mail advising that the turbine layout for Adelaide and Bornish has had to be changed and that REA field studies will be re-done, including archaeology.	<ul style="list-style-type: none"> Information-sharing 	No reply was received.
2011-06-02	R. Waldon	Wilson Plain Jr.	E-Mail explaining that the Health and Environment Committee extend an invitation to meet at Aamjiwnaang to discuss NextEra projects.	<ul style="list-style-type: none"> Communication 	2011-06-02 R. Waldon replied with a map of Ontario project locations seeking clarification of which projects the Health and Environment Committee wished to discuss.
2011-06-08	R. Waldon	Wilson Plain Jr.	E-mail to seek clarification of which projects the Health and Environment Committee wished to review.	<ul style="list-style-type: none"> Communication 	Due to a death in the community, Mr. Plain has not been able to reply. R. Waldon provided information that Bluewater, Goshen and Jericho projects are at the field study stage, and that Adelaide and Bornish projects field studies are being redone due to layout changes.

Date	Contact By	Contact With	Description	Purpose	Follow-up and Results
2011-06-09	R. Waldon	Sharilyn Johnston, Wilson Plain Jr.	E-Mail advising that the archaeology for Adelaide and Bornish will begin next week because ground conditions are now suitable. The proposed monitoring arrangements were also explained.	<ul style="list-style-type: none"> Information-sharing 	No reply was received.
2011-06-20	R. Waldon	Wilson Plain Jr.	Exchange of e-mails confirming that Conestogo and East Durham are NOT in Aamjiwnaang traditional territory and that Adelaide, Bornish, Bluewater, Goshen and Jericho ARE of interest to the Health and Environment Committee.	<ul style="list-style-type: none"> Information-sharing 	N/A
2011-06-27	R. Waldon	Wilson Plain Jr.	Exchange of e-mails to finalize arrangements for July 19th presentation to Health and Environment Committee.	<ul style="list-style-type: none"> Administrative 	N/A
2011-07-19	B. Greenhouse L. Cantave T. Bird R. Waldon	Aamjiwnaang Health and Environment Committee	This meeting included a presentation by NEEC covering all current projects in Ontario and general company information. Discussion included schedules, regulatory process and their status. The Committee raised their concern that First Nations should see benefits from energy developments within their Traditional Territories to create "a better place" for their communities, but they do not. A discussion took place on the general areas that the Committee felt proponents should consider.	<ul style="list-style-type: none"> Information-sharing 	<ul style="list-style-type: none"> NEEC to provide a copy of the Epsilon Study NEEC to return to further discuss potential initiatives that could foster "a better place" for Aboriginal communities.
2011-08-09	R. Waldon	Sharilyn Johnston, Wilson Plain Jr.	E-mail enclosing a summary of Fall 2011 archaeological work plans for all current Ontario projects and offering a field meeting with community representatives.	<ul style="list-style-type: none"> Communication 	No reply received.