

Project*	Work Planned and Consultant Name	Timeframe
	The remaining fieldwork will require only 1 day to complete and includes pedestrian survey of one MET tower location and one electrical line corridor	
East Durham	<p>Archaeological Consultant: Scarlett Janusas Archaeological And Heritage Consulting Contact: Scarlett Janusas, E-mail: jscarlett@amtelecom.net</p> <p>Independent Monitor, Saugeen Ojibway Nations Environment Office: Individual to be confirmed through SON EO</p> <p>Work Description: The work is to start and complete stage 2 archaeological surveying. The lands will be plowed and allowed to weather for at least 2 significant rainfalls. This will be followed a pedestrian survey led by a licensed archaeologist. Land surveyors walk side by side and mark 5 metre intervals on cultivated fields. The surveying will be done when there is at least 80% ground visibility and the soil has been weathered by rain. That is why a set start date cannot be given.</p> <p>Any archaeological artifacts that are found will be picked up, documented, and archived at an appropriate repository according to Ministry of Tourism and Culture (MTC) requirements.</p> <p>A Stage 2 Archaeological Assessment report will be completed that describes the study and any artifacts found and will be submitted to MTC for review and to interested Aboriginal communities.</p> <p>The surveying is expected to take 5 to 10 days to complete.</p> <p>Stage 2 will be conducted as per the 2011 MTC Standards and Guidelines.</p>	Spring 2012

Project*	Work Planned and Consultant Name	Timeframe
<p>Adelaide and Bornish</p>	<p>Archaeological Consultant: Golder Associates Contact: Jeff Muir, Field Manager E-Mail: Jeffrey_Muir@golder.com</p>	<p>Spring 2012</p>
	<p>Independent Monitors: Brandy George Archaeological Services Inc. Contact: Brandy George, Monitoring Archaeologist Wayne Hill, Two Row Archaeology</p>	
	<p>Work Description The goal is to conduct the remaining Stage 2 archaeological fieldwork. This will consist of a pedestrian survey led by a licensed archaeologist. Field archaeologists walk side by side at 5 metre intervals on cultivated fields. The surveying will be conducted when there is at least 80% ground visibility (i.e. crops have been harvested and the land re-ploughed) and the soil has been weathered by rain.</p> <p>A large portion of the work has been done on each project but this fieldwork will accommodate any changes made to the wind farm design layout and to any modifications to the proposed transmission lines.</p> <p>Any archaeological artifacts that are found will be documented, and a sample will be picked up, catalogued, and archived at an appropriate repository according to Ministry of Tourism, Culture and Sport requirements.</p> <p>A Stage 2 Archaeological Assessment report will be completed that describes the study area and any artifacts found. It will be submitted to Ministry of Tourism, Culture and Sport for review and to interested Aboriginal communities. This will supplement the Stage 2 Archaeological Assessment reports already submitted for these projects.</p> <p>The work schedule is currently being developed but is expected to take place throughout the spring. Field ploughing and weather may affect the schedule and duration of the field work.</p>	

Project*	Work Planned and Consultant Name	Timeframe
<p>Bluewater, Goshen and Jericho</p>	<p>Archaeological Consultant: Golder Associates Contact: Jeff Muir, Field Manager E-Mail: Jeffrey_Muir@golder.com</p>	<p>Spring 2012</p>
	<p>Independent Monitors: Brandy George Archaeological Services Inc. Contact: Brandy George, Monitoring Archaeologist</p>	
	<p>Work Description: The goal is to conduct the remaining Stage 2 archaeological fieldwork. This will consist of a pedestrian survey led by a licensed archaeologist. Field archaeologists walk side by side at 5 metre intervals on cultivated fields. The surveying will be conducted when there is at least 80% ground visibility (i.e. crops have been harvested and the land re-ploughed) and the soil has been weathered by rain.</p> <p>This work is a continuation of the fieldwork already conducted by Golder with Brandy George's assistance in the fall of 2010 and throughout 2011.</p> <p>Any archaeological artifacts that are found will be documented, and a sample will be picked up, catalogued, and archived at an appropriate repository according to Ministry of Tourism, Culture and Sport requirements.</p> <p>For the Bluewater project, a Stage 2 Archaeological Assessment Report has already been submitted for the wind farm layout and the additional report submitted in the spring of 2012 will deal with the transmission line field work and any modifications to the existing wind farm layout. For both Goshen and Jericho, a Stage 2 Archaeological Assessment report for each project will be completed that describes the study area and any artifacts found. All reports will be submitted to the Ministry of Tourism, Culture and Sport for review and to interested Aboriginal communities.</p> <p>The work is anticipated to last for about 6 to 8 weeks.</p>	

Project*	Work Planned and Consultant Name	Timeframe
	Field ploughing and weather may affect the schedule and duration of the fieldwork.	
Summerhaven	<p>Archaeological Consultant: Golder Associates Contact: Jeff Muir, Field Manager E-Mail: Jeffrey_Muir@golder.com</p>	Spring 2012
	<p>First Nation Monitor with Golder Crew: Jason Silver (for Six Nations of Grand River) Sheila Silver (for Six Nations of the Grand River) Jedekiah Secord (for Mississaugas of New Credit)</p> <p>Independent Monitor: Wayne Hill, Two Row Archaeology</p>	
	<p>Work Description: The Stage 1 desktop study is completed and the Stage 2 archaeological fieldwork is about 95% done. All diagnostic artifacts and a sample of other artifacts have been collected and catalogued, while others were left <i>in situ</i>.</p> <p>Curated artifacts are kept securely in Golder’s office as per Ministry of Tourism and Culture regulations and recorded as part of the Ontario Archaeological Sites Database. There have been about 900 sites found to date, with some portions of the proposed transmission line and collector cables still to be surveyed.</p> <p>About 150 sites have undergone Stage 3 archaeological assessment to date, with other sites recommended for Stage 3 archaeological assessment avoided through wind farm layout changes. Stage 4 work has already been conducted on 7 sites. This year’s fieldwork will still follow the first priority of avoidance, but as the wind farm design advances, this becomes more difficult. Where avoidance is not possible, Stage 4 excavation, documentation and cataloguing is required.</p>	

Please see the enclosed map for the general locations of all current NEEC wind projects.

As explained above, the exact start date in of site work depends on weather and soil conditions. We cannot predict a specific date but certainly will begin as soon as fields are ploughed and soils are weathered.

Field Briefings

NEEC and its archaeological consultants will arrange a field briefing for communities who wish to send a representative to meet directly with the archaeological consultant. The field briefing is a suggestion we received from one of the interested communities in 2010. They would last about 1 hour.

Field briefing arrangements will be made based on requests we receive by April 1, 2012.

The field briefing is described in NEEC's Ontario Projects Archaeological Protocol (enclosed). We would like the field briefing to include:

1. Opportunity to meet the personnel involved in this work, including any monitors who will be on site
2. Description of archaeological fieldwork plans and locations
3. Discussion of NEEC's Archaeological Protocol and roles of the archaeological crew and monitors
4. Receive any advice or direction from community representatives that may help us to complete this work in a respectful and thorough way
5. Ensure all involved parties know who the appropriate contact persons are, and how to contact them

Contact Information

For any questions about field briefings, or to request additional arrangements for monitoring, please contact the coordinating archaeologists above *by April 1, 2012* and R. D. (Bob) Waldon of Bedford Consulting & Associates, who is coordinating the Aboriginal consultation work at:

Bob Waldon
Bedford Consulting & Associates
e-mail: rdwaldon@bedfordC4.com
1-905-838-4256

If you have any questions about the archaeological field work itself, please contact:

Tom Bird
Project Manager, Environmental Services
NextEra Energy Canada, ULC
1-905-335-4904



Appendixes

Appendix F Aboriginal Community Consultation Protocols



Appendixes

Appendix F.1 Saugeen Ojibway Nations



Principles for Proponents working in the Traditional Territories of the Saugeen Ojibway Nations

The Saugeen Ojibway Nations consist of the Chippewas of Saugeen and the Chippewas of Nawash Unceded First Nation. The traditional lands of the Saugeen Ojibway Nations extend east from Lake Huron to the Nottawasaga River and south from the tip of the Bruce Peninsula to the Maitland River system (11 miles south of Goderich). The traditional waters around these lands include the lakebed of Lake Huron from the shore to the US border and the lakebed of Georgian Bay to the halfway point.

The following principles will form the basis of any future relationship with the proponent and a negotiated protocol for consultation and accommodation.

1. Rights and Interests

The rights and interests of the Saugeen Ojibway Nations are as follows:

- a) Pursuant to our 19th century Treaties with the Crown, the SON occupy large Reserves bordering Lake Huron or Georgian Bay. Because these reserve lands were exempted from the surrender in the Treaty, the SON have Aboriginal title to those lands. Those reserves sustain the SON's future in various ways. They are our residential communities, include places of cultural and spiritual significance, and are the base for our fisheries and other economic opportunities, including valuable recreational properties. Those proprietary rights and interests depend on a safe and stable, toxic-free environment, including clean water from Lake Huron or Georgian Bay.
- b) The SON have subsistence fisheries and land-based harvesting practices and rights throughout our territory. These provide vital support for our Aboriginal culture and way of life, as well as the economy, health and social relationships in the SON communities.
- c) The SON also have commercial fishing rights in Lake Huron and Georgian Bay. These Aboriginal and Treaty rights were confirmed in *R v Jones and Nadjiwan*, [1993] 3 CNLR 178, and are an interest of growing economic importance, in light of the large scale settlement and development in the territory.
- d) The SON also have two major land claims before the courts. One is an aboriginal title claim to the lakebeds of our traditional waters. The other affects the whole of Bruce Peninsula, including the land under navigable rivers and lakes.

2. Consultation

The Supreme Court of Canada has recently explained the Crown's legal obligations to consult aboriginal peoples, in three decisions: *Taku River Tlingit v British Columbia* [2005] 1 CNLR 366, *Haida Nation v British Columbia* [2005] 1 CNLR 72, and *Mikisew Cree v Canada* [2006] 1 CNLR 78. In subsequent decisions by courts in British Columbia and Ontario, further details have been clarified – see e.g., *Musqueam Indian Band v Canada* [2005] 2 CNLR 212 (B.C.C.A.), *Platinex Inc. v Kitchenuhmaykoosib Inninuwig First Nation* (Ont. SCJ, July 28, 2006).

It is now settled that a government must engage in consultations with an Aboriginal people when considering a decision that might adversely affect their Aboriginal or Treaty rights or interests intended for protection by section 35 of the *Constitution Act, 1982*. **If there is a potential for substantial adverse impacts or infringement, there is a corresponding obligation to protect and accommodate the affected rights or interests.**

These consultation and accommodation obligations are based on the honour of the Crown. They reflect the ongoing requirement to pursue the reconciliation of pre-existing Aboriginal rights and interests with Crown sovereignty. These are continuing obligations that emerge from the Crown-Aboriginal relationship, and **which arise whenever there is a reasonable likelihood that Aboriginal interests could be at risk**. If governments do not fulfill these obligations, the courts may disallow authorizations for proposals that triggered the duty.

Therefore, in the context of the SON:

- a) The process must **focus on the impacts/infringement**. The Crown must genuinely seek to inform itself about and substantially address the First Nation's concerns.
- b) The **focus must be on the outcome and not just the process**. The appearance must not triumph over content.
- c) The key is to focus the consultation process on the constitutionally protected aboriginal rights in question. This is not just a chat. This is not a discussion about "interests". This is a process required because the Crown is proposing to allow something to take place that could infringe a right or rights protected by s.35 of the Canadian Constitution. **The scope and nature of the consultation and accommodation are inextricably linked to the rights at stake.**
- d) The substantive requirement is that the Crown "demonstrably integrate" the rights and title claims raised by the First Nation into the decision making process.
- e) The Crown's legal duty to consult with the Saugeen Ojibway Nations cannot be delegated to third parties.
- f) Consultation cannot proceed in the absence of the Crown.

- g) The SON, after the Environmental Assessment process, will be consulted about any subsequent permitting, approval and licensing processes that are a part of the overall project.

3. Protection of the Environment

The Saugeen Ojibway Nations' traditional territories have been their home long before contact and will continue to be their home for generations to come. The full expression of Saugeen Ojibway Nations' rights depends on healthy, biologically diverse ecosystems. Therefore:

- a) The SON must have full participation in any environmental screening or assessment process.
- b) The SON are entitled to share and have access to all necessary information relating to environmental screening or assessment reports and processes, especially those that might reveal potential impacts on Saugeen Ojibway Nations' rights, claims and way of life.
- c) The SON must have full participation in the ongoing monitoring of the project.
- d) A separate Environmental Agreement will be required. Components of the Environmental Agreement would include (but would not be limited to):
 - i. terms and conditions that are necessary as identified by the SON's environmental review of the project;
 - ii. a determination of the level of engagement of the SON in the ongoing environmental management of the project, including decommissioning of the project;
 - iii. delivery of environmental monitoring data, studies and other information to the SON for periodic evaluation;
 - iv. periodic independent evaluation of the proponent's environmental performance;
 - v. the collection of baseline data for use as environmental health indicators.
 - vi. environmental reporting to the SON on a regular basis;
 - vii. review and approval authority by SON of environmental management plans (especially closure/decommissioning plans);
 - viii. an endorsement of the precautionary principle;
 - ix. agreement on the preservation of sensitive naturally occurring ecologies, including species of particular cultural interest to the SON;
 - x. restoration, where practical and appropriate, of indigenous species;
 - xi. compliance with regulations, standards and best practices of the day.

4. Sustainability of the First Nations

In the past, many projects, legislation, policies and practices have proven incompatible with the Saugeen Ojibway Nations' rights, interests and way of life. Therefore:

- a) The proponent must accommodate the rights and interests of the SON such that the project contributes to the SON's well-being and does not undermine it.
- b) Any adverse impact or infringement upon the SON's rights and way of life and the sustainability of these interests within their traditional territories must be fully addressed and mitigated by the proponent. This would include impacts on harvesting rights, particularly SON rights to a commercial fishery.
- c) The proposed project must be consistent with the SON's vision for the land and waters of their traditional territories, respectful of their rights and interests and it must contribute to the cultural, economic and social vitality of their people.

5. Protection of Culturally Specific Sites (burial grounds, ancient habitation sites etc.)



Areas within the traditional territories of the Saugeen Ojibway Nations are sacred and are of significant cultural value. It is imperative that these sites are properly identified and protected. Therefore:

- a) The proponent must, with SON participation, determine whether the site for the proposed project is of any cultural significance to the SON.
- b) The proponent and the SON must assess whether the project will have an adverse impact on any existing culturally specific site(s).
- c) If the heritage resource potential of any site(s) proposed for surface disturbance has not yet been assessed for archaeological potential, then, prior to any disturbance, the proponent must conduct a site archaeological survey according to terms agreed to by the SON.
- d) If artefacts or remains are found, all work at the site must cease and the SON notified immediately. The proponent and First Nation representatives will then enter into negotiations regarding the disposition of artefacts and the protection of remains.
- e) Socio-cultural impact assessment studies may need to be conducted at the proponent's expense.

6. Experts and Assessments

- a) The proponent must seek the approval of the SON for the appointment of experts who will conduct traditional land use studies, archaeological studies and ethnographic studies that assess the impacts of the project.
- b) The SON must play a meaningful role in any assessments or studies regarding the project and its impact on their rights and way of life and the sustainability of these

interests within their traditional territories. This role might include the setting of terms of reference and the peer review of such studies.

7. Mitigation Strategies

Accommodation is an integral part of consultation. Therefore:

- a) The proponent and the SON must jointly develop mitigation strategies that fully address the SON's concerns.

8. Information Sharing

An open and transparent process, conducted in good faith is at the heart of proper consultation. The Saugeen Ojibway Nations must be able to make informed decisions, understand fully the effects that a decision may have, and ensure their decisions are consistent with the needs, aspirations and concerns expressed by their communities. Therefore:

- a) The proponent must provide the necessary vital and detailed information pertinent to the project and its impacts on the SON's rights and interests and the sustainability of these interests within their traditional territories.
- b) The SON must share all information with the proponent that addresses their concerns regarding potential impacts of the project and any other information that is necessary in terms of assessing and or monitoring the project as well as designing and implementing any required mitigation measures.
- c) All information must be provided in a timely manner.

9. Capacity

- a) The proponent must provide the Saugeen Ojibway Nations with sufficient funding to ensure that the SON can participate fully in the negotiation of a Protocol Agreement and in the consultation process itself, which includes the various studies, and stages of the assessment process.

10. Benefits

The SON is generally excluded from the educational, employment and business opportunities that industry brings to others in their traditional territories. Therefore:

- a) The proponent and SON will negotiate an agreement that will include, but is not limited to, compensation, employment, training and business opportunities.



Appendixes

Appendix F.2 Six Nations Elected Council



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

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

1. Preamble

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

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

2. Policy Statement

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

3. Guiding Principles

The following principles shall guide all consultation and accommodation endeavours.

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

4. Application

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

5. Enforcement

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

6. Definitions

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

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

7. Non-Derogation

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

7.2 Nothing in this policy shall be construed as to affect the Aboriginal or Treaty rights, as recognized by section 35 of the *Constitution Act*, 1982, of any other First Nation.

8. Responsibilities of the Crown

8.1 The Crown is responsible to:

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

9. Responsibilities of SNEC

9.1 SNEC is responsible to:

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

10. Responsibilities of Proponents

10.1 Proponents are responsible to:

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

11. Overview of the Early Consultation Process

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

12. Minor Projects

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

13. Major Projects

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

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

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

14. Overview of Accommodation Process

- 14.1 Any party that wishes to fulfill the duty to consult with Six Nations shall not be considered to have fulfilled that duty until the concerns of Six Nations Land Use Consultation Team and the Six Nations Community have been heard and any reasonable concerns satisfactorily addressed.
- 14.2 After the Six Nations Land Use Consultation Team and Six Nations Community have been provided with the opportunity to submit comments regarding the project, SNEC shall compile a Report of Concerns detailing the concerns identified throughout the process, as well as recommendations for how to accommodate those concerns. SNEC will then submit the report to the Crown and the Proponent. This report will be made available to the public.
- 14.3 The Proponent and the Crown may opt to agree with the concerns and recommendations suggested in the Report of Concerns.
- 14.4 If the Report of Concerns is not agreed to by the Proponent or the Crown a detailed, written response to the Report of Concerns and alternative means of accommodation shall be furnished to SNEC, in a timely manner, by the disagreeing party.
- 14.5 Upon receipt of any response from the Proponent or the Crown, SNEC and the Proponent shall attempt to reach a mutually acceptable agreement through a process of conciliation.
- 14.6 If a mutually acceptable agreement is obtained by the parties, SNEC shall furnish a letter to the Proponent recognizing the project and indicating that the duty to consult and accommodate has been fulfilled.
- 14.7 If a mutually acceptable agreement is no longer reasonably attainable SNEC shall notify the Crown of its desire to commence a further negotiation process.
- 14.8 Negotiations shall be carried out in a mutually agreeable, impartial manner. The structure, procedure, timing, location and parties shall be agreed to by the Crown and SNEC prior to the negotiation process being undertaken.

15. Dispute Resolution

- 15.1 In order to avoid resorting to the court system, if at any point throughout the consultation process the parties feel that an agreement cannot be reached they may opt to pursue a dispute resolution process.
- 15.2 Any dispute resolution process must be:
 - (i) conducted in a manner where Six Nations has equal decision making power;
 - (ii) conducted in an impartial and mutually acceptable manner; and
 - (iii) conducted in a timely manner.
- 15.3 The process of consultation shall cease for the duration of a dispute resolution process.
- 15.4 The Crown, SNEC, and the Proponent must be parties to any dispute resolution process.
- 15.5 If the parties required in a dispute resolution by subsection 15.4 deem it appropriate they may agree to grant standing to any Six Nations Member or party in a dispute resolution.
- 15.6 A third party may receive standing in a dispute resolution.
- 15.7 A dispute resolution process may be sought where the end result of the consultation process is 'no agreement.'

16. Review and Amendment

- 16.1 SNEC shall review this policy on at least an annual basis.
- 16.2 Any ongoing consultations shall not be affected by changes to the policy, unless agreed to by all parties.
- 16.3 SNEC reserves the right to amend or clarify the policy as it considers necessary to reflect its intended application.

17. Regulations

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

18. Authorization

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

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



Appendixes

Appendix G Tables of Concordance



Appendixes

Appendix G.1 Historic Saugeen Métis

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Aboriginal People Interests <ul style="list-style-type: none"> (i) are there aboriginal sensitive areas having been recognized on or around the study area (ii) have the aboriginal people in Ontario been consulted (iii) additional technical and traditional knowledge of the study and surrounding area 	<ul style="list-style-type: none"> NextEra has and is fulfilling its obligations for procedural consultation with all Aboriginal governments identified by the Director or through its own inquiries, in accordance with Ontario Regulation 359/09 and NextEra's First Nation and Métis Relationship Policy. An Aboriginal Consultation Report is being prepared for this Project. NextEra has had ongoing dialogue with Historic Saugeen Métis and will report the results or status of those discussions as part of its Final Renewable Energy Approval Application. 	<ul style="list-style-type: none"> N/A
<ul style="list-style-type: none"> Air Quality <ul style="list-style-type: none"> (i) will there be any pollution during the construction, operation, decommissioning or abandonment of projects 	<ul style="list-style-type: none"> Potential effects on air quality, including mitigation measures, are summarized in the rows below with corresponding Report/Section references provided. Potential effects from construction and installation activities include: <ul style="list-style-type: none"> Emissions of contaminants from portable generator sets, truck traffic and other construction vehicles, including but not limited to, nitrogen dioxide, sulphur dioxide, suspended particulates, emissions of greenhouse gases (carbon dioxide, methane); and, Dust as a result of vehicle traffic over gravel roads and/or cleared areas. The following mitigation measures are proposed to address any effects to air quality: <ul style="list-style-type: none"> Use spray water and environmentally friendly dust suppressants applied at an environmentally acceptable rate to minimize the release of dust from gravel, paved areas and exposed soils only where necessary on problem areas; Implement a speed limit that will lead to reduced disturbance of dust on paved and unpaved roads; and, Ensure proper maintenance of vehicles and machinery to limit noise, Criteria Air Contaminant (CAC) emissions and leaks. Construction activities may be suspended during high winds should air quality deteriorate as a result of an increase in dust or emissions. With the implementation of the mitigation measures above, although there is a high likelihood of these effects occurring, they are anticipated to be short term and limited in magnitude. Effects during the decommissioning phase are anticipated to be similar to those experienced during the construction phase. Potential effects from operations and maintenance activities include: <ul style="list-style-type: none"> Emissions of contaminants from maintenance vehicles and increase in dust from vehicles driving on gravel roads or cleared areas. Dust as a result of vehicle traffic over gravel roads and/or cleared areas. The following mitigation measures are proposed to address any effects to air quality: <ul style="list-style-type: none"> Ensure all engines meet emission requirements specified by the Ministry of the Environment and Ministry of Transportation. Limit speed of maintenance vehicles to minimize dust generations. There is a low likelihood of these effects occurring and with the implementation of the mitigation measures above; the effects are anticipated to be limited in magnitude. 	<ul style="list-style-type: none"> N/A Construction Plan Report: Table 3-7– Mitigation Measures, Residual Effects and Monitoring Plan: Emissions to Air Design and Operations Report: Table 6-6 – Mitigation Measures, Residual Effects and Monitoring Plan: Emissions to Air

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> • Wildlife <ul style="list-style-type: none"> (i) consideration relating to threatened and/or endangered species (ii) harvesting as it relates to the gathering of traditional plants & herbs, hunting and/or use of lumber (iii) flora and fauna population impacts (iv) any biodiversity initiatives (v) monitoring 	<ul style="list-style-type: none"> • Effects on wildlife are assessed in the Natural Heritage Assessment (NHA) and Environmental Impact Study Report and summarized in the Construction Plan and Design and Operations Report. Any information received from Historic Saugeen Métis (HSM) through the procedural consultation process, about potential concerns for specific areas where harvesting may be taking place will be addressed directly with HSM. • Please see the rows below for details with corresponding Report/Section references provided. <p>(i) Due to the sensitive nature of information about the locations of Species at Risk, they are not identified in the Natural Heritage Assessment and Environmental Impact Study Report. Species at Risk and their habitats potentially occurring within the Study Area are being identified through field investigations, background research and in consultation with the MNR. Three species at risk were observed during field work for the East Durham Wind Energy Project. Potential effects to Species at Risk have been addressed through a Species at Risk Report submitted to the MNR. This report describes the studies conducted that relate to Species at Risk in the project area. NextEra will work with the MNR to determine if a permit is required under the <i>Endangered Species Act, 2007</i>.</p> <p>An Endangered Species Act permit is required if the proposed works will have an adverse effect on a protected species or its habitat, as determined by the MNR. Any required permits will be obtained from the MNR prior to commencing construction and any required mitigation measures or monitoring commitments will be implemented.</p> <p>(ii) To date, HSM have not provided any information on Métis harvesting activities of their citizens that may be impacted by the Project. As a result, NextEra is relying on the assessment and mitigation measures proposed through the NHA which was submitted to the MNR.</p> <p>With regard to vegetation removal, the Project is sited predominantly on actively farmed agricultural fields.</p> <p>Some vegetation removal will be required within a portion of the significant woodlands identified as WO-03 (Turbine 17) and WO-04 (Turbine 10). The amount of vegetation removed from WO-03 is 0.97 ha which represents 0.07% of the total area of the woodland, based on the size of the cleared area and the overall woodland size. As a result, interior habitat will be reduced from 310.31 ha to 309.97 ha. In the case of WO-04, the amount of vegetation proposed for removal is 0.42 ha, which represents 0.02% of the total area of the woodland, based on the size of the cleared area and the overall woodland size. The proposed vegetation removal will not impact the amount of interior habitat contained within WO-04. Overall, the vegetation removal represents minor intrusion into the edge of these two woodland features. NextEra has committed to compensating for this vegetation removal as outlined in the EIS detailed in the Natural Heritage Report.</p> <p>(iii) Effects on flora and fauna are discussed in terms of vegetation removal for construction (see row above for details) and bird and bat mortality during turbine operation (see row below for details).</p> <ul style="list-style-type: none"> • NextEra will develop and implement a monitoring program for bird and bat mortality consistent with <i>Birds and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, December 2011) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, July 2011). • The findings of the bird and bat mortality monitoring programs will be reported back to MNR on an annual basis for the first 3 years of operation. 	<ul style="list-style-type: none"> • Information pertaining to Species at Risk is documented in a stand-alone report submitted to the MNR separate from the NHA approval process (East Durham Wind Energy Centre, Species at Risk Summary Report, October 2012) • Further submissions include the completion of the MNR's Information Gathering Form (IGF) and Avoidance Alternatives Form (AAF) • As of January 21, 2012, the MNR is still reviewing the report and has not provided any specific feedback to the project team • East Durham Wind Energy Centre Natural Heritage Assessment, November 2012 • N/A • Design and Operations Report: Table 6-3 – Mitigation Measures, Residual Effects and Monitoring Plan: Significant Wildlife Habitat

Table of Concordance

Historic Saugeen Métis

Issue/Value	Response	Corresponding Report and Section
	<ul style="list-style-type: none"> • Potential effects to migratory birds are addressed through the Natural Heritage Assessment under Waterfowl Stopover and Staging Areas and Shorebird Migratory Stopover Areas. • No Significant Migratory Stopover and Staging Areas were determined to be located within 120 m of the Project Location. • Post-construction mortality studies for birds and bats are required for all wind energy projects in Ontario. Details of the monitoring protocol are provided above. 	<ul style="list-style-type: none"> • Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring plan: Natural Heritage Resources • East Durham Wind Energy Centre Natural Heritage Assessment, November 2012
	<p>(iv) As noted above, NextEra has committed to compensating for vegetation removal, where required, as outlined in the EIS detailed in the Natural Heritage Report.</p> <ul style="list-style-type: none"> • Furthermore, vegetation removal will be kept to a minimum and will be scheduled outside of breeding season for amphibians; which includes: <ul style="list-style-type: none"> ▪ Salamanders – March 15 to April 30th or as determined through consultation with MNR Midhurst District Offices; and, ▪ Frogs- April 1 to June 30th or as determined through consultation with MNR Midhurst District Offices. 	<ul style="list-style-type: none"> • Construction Plan Report: Table 3-5– Summary of Potential Negative Effects and Proposed Mitigation Measures for Generalized Candidate Significant Wildlife Habitat • Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features
	<p>(v) Monitoring will occur during the construction phase for natural heritage features. The following rows detail the monitoring plans. Note that monitoring for bird and bat mortality is described in the rows above.</p>	<ul style="list-style-type: none"> • N/A
	<p>An environmental inspector will monitor on-site conditions (i.e. erosion and sediment control, spills, flooding, etc.) where construction occurs within 30 m of a natural heritage feature on the following basis:</p> <ul style="list-style-type: none"> ▪ Weekly during active construction periods; ▪ Prior to, during and post forecasted large rainfall events (>20 millimetres in 24 hours) or significant snowmelt events (i.e., spring freshet); ▪ Daily during extended rain or snowmelt periods; and, ▪ Monthly during inactive construction periods, where the site is left alone for 30 days or longer. <p>Additional monitoring or inspections will involve ensuring that:</p> <ul style="list-style-type: none"> ▪ Only specified trees are removed where tree removal is required and no damage is caused to remaining trees during construction; ▪ Protective fencing is intact for sediment and erosion control; ▪ Drift fences (if required to protect snake hibernaculum when snakes are emerging or returning to their habitat) are intact; ▪ Equipment is maintained free of leaks or spills; and, ▪ Directional drilling does not result in “frac-out” and if it does, to ensure that there are no effects on surface and ground water; ▪ There is no change in grade within 30 m of vernal pool locations; and, ▪ Post-construction amphibian call surveys and area searches will be conducted to identify any potential negative effects to amphibian breeding populations. If negative effects are detected, corrective measures will be taken. <p>Finally, NextEra has offered to discuss capacity funding for HSM participation or review of post construction monitoring.</p>	<ul style="list-style-type: none"> • Construction Plan Report: Table 3-5– Summary of Potential Negative Effects and Proposed Mitigation Measures for Generalized Candidate Significant Wildlife Habitat • Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features



Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> • Study Area <ul style="list-style-type: none"> (i) is there the existence of Crown land within the study area (ii) what is the nature of the lands within the study areas (agricultural, woodlands, etc.) 	<p>Please see the rows below for details with corresponding Report/Section references provided.</p> <ul style="list-style-type: none"> (i) There is no Crown Land within the Study Area. (ii) Common agricultural land uses in West Grey are cash crops (e.g., soybeans, corn, wheat, etc.), hay, hobby farming, maple syrup production woodlots and livestock farming. Other land uses include non-farm residential uses on separate lots created through severances for farm retirement lots, surplus farm dwelling lots, older estate lots, etc., that are scattered throughout the study area in limited numbers. <p>Recreational land uses within the Project Study Area include fishing on the Saugeen River system, which flows throughout the project area, and the region also hosts an active hunting community for deer and fowl. Areas within the Study Area are used by residents for camping, religious retreats and winter sports, such as snowmobiling, cross-country skiing, and snowshoeing. Although there are not many organized public recreation resources within in the Project Study Area a number of hiking trails, canoe routes, and conservation areas exist in the vicinity, such as, the Durham Conservation Area, Moss Lake Conservation Area, Saugeen Conservation Areas, Saugeen Canoe Route, Beaver Valley Bruce Trail and the Flesherton Walking Village Initiative.</p> 	<ul style="list-style-type: none"> • N/A • N/A • Construction Plan Report: Section 3.6.1
<ul style="list-style-type: none"> • Water Quality <ul style="list-style-type: none"> (i) impact on drinking water (ii) pollution and its cumulative effects (iii) groundwater (iv) impacts downstream (v) fish habitats including spawning grounds being impacted (vi) monitoring 	<p>Please see the rows below for details with corresponding Report/Section references provided.</p> <ul style="list-style-type: none"> (i) With the implementation of the recommended mitigation measures (see “groundwater” section below) effects to the quality and quantity of groundwater are anticipate to be low in likelihood and negligible in magnitude. (ii) Soil or water contamination could occur, although unlikely, during construction or maintenance activities from accidental spills of oils, grease or other materials. <p>The following mitigation measures are proposed to address potential effects on water quality:</p> <ul style="list-style-type: none"> ▪ Ensure machinery is maintained free of fluid leaks. ▪ Site maintenance, vehicle washing and refuelling stations where contaminants are handled at least 30 m away from natural features or water bodies. Vehicle refuelling and maintenance should be done on spill collection pads. ▪ Store any stockpiled materials at least 30 m away from a water body to prevent deleterious substances from inadvertently discharging to the environment. ▪ Develop a spill response plan and train staff on associated procedures. ▪ Maintain emergency spill kits on site. ▪ Control soil / water contamination through best management practices. ▪ Dispose of any waste material from construction activities by authorized and approved off-site vendors. (iii) Potential effects to groundwater include: <ul style="list-style-type: none"> ▪ Reduction in groundwater quality and quantity due to dewatering when excavating and constructing the turbine bases. ▪ Increase in impervious area created by the turbine base and access roads resulting in reduced infiltration near to the noted groundwater recharge areas (beach, ridge and glacial outwash deposits). 	<ul style="list-style-type: none"> • Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features • Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features • Design and Operations Report: Table 6-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features • Construction Plan Report: Table 3-6 – Mitigation Measures, Residual Effects and Monitoring Plan: Geology and Groundwater

Issue/Value	Response	Corresponding Report and Section
	<p>With the implementation of the recommended mitigation measures, the residual effects are anticipated to be low in likelihood and negligible in magnitude (for reduction in groundwater quality and quantity) and limited in magnitude (for increase in impervious surfaces). These mitigation measures include:</p> <ul style="list-style-type: none"> Restrict dewatering during extreme low flow conditions (i.e., high summer) and direct the discharge from dewatering back into the nearest watercourse (following sediment control practices) to negate the potential that drawdown will decrease baseflow into streams. Maintain a setback of 120 m from the nearest water wells, buildings, and significant natural features. Direct runoff from the constructed impervious surfaces to ground surface to prevent any decrease in infiltration and recharge. 	
	<p>(iv) Potential effects downstream are discussed in terms of effects on groundwater and effects from accidental spills of oils, grease or other materials (see rows above). Effects downstream are also assessed in terms of erosion, sedimentation and turbidity, in addition to changes in surface water drainage patterns. Mitigation measures to address these potential effects include:</p> <ul style="list-style-type: none"> Develop and implement an Erosion and Sediment Control Plan before commencement of construction as per Ontario Provincial Standard Specifications (OPSD 219.130). Utilize erosion blankets, erosion control fencing, straw bales, siltation bags, etc. For construction activities within 30 m of a water body, to mitigate potential excessive erosion and sedimentation. Additional erosion and sediment control materials to be kept on hand, (i.e., heavy duty silt fencing, straw bales). Maintain all sediment and erosion control measures until disturbed areas have been replanted and stabilized. Schedule grading to avoid times of high runoff volumes (spring and fall), wherever possible. Temporarily suspend work if excessive flow of sediment discharge occurs until additional mitigation measures are in place. Re-vegetate disturbed areas to pre-construction conditions as soon as possible after construction activities are complete using species native to Ontario in naturally vegetated areas. Minimize changes in land contours and natural drainage; maintain timing and quantity of flows. Any grading of lands adjacent to natural features should match existing grades at the identified set-back, or buffer from the features. 	<ul style="list-style-type: none"> Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features
	<p>(v) Effects on fish habitat were assessed as part of the Water Assessment and Water Body Report. As no in water work is proposed and construction of turbines and access roads is not proposed within 30 m of a watercourse, potential for degradation to fish habitat is considered low. Mitigation prescribed for water bodies generally relates to the installation of underground collection lines within existing road right of ways through directional drilling and/or trenching. Mitigation and monitoring is focussed on construction activity and the control of sedimentation and erosion and release of other deleterious substances into water bodies during the construction phase.</p>	<ul style="list-style-type: none"> Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features East Durham Wind Energy Centre Water Assessment and Water Body Report, October 2012

Table of Concordance

Historic Saugeen Métis



Issue/Value	Response	Corresponding Report and Section
	<p>(vi) Monitoring will occur during the construction and operations phase for surface and groundwater. The following row details the monitoring plans and corresponding Report/Section references provided.</p> <p>An environmental inspector or on-site ecologist will monitor on-site conditions (i.e. erosion and sediment control, spills, flooding, etc.) where construction occurs within 30 m of a watercourse on the following basis:</p> <ul style="list-style-type: none"> ▪ Weekly during active construction periods; ▪ Prior to, during and post forecasted large rainfall events (>20 millimetres in 24 hours) or significant snowmelt events (i.e., spring freshet); ▪ Daily during extended rain or snowmelt periods; and, ▪ Monthly during inactive construction periods, where the site is left alone for 30 days or longer. 	<ul style="list-style-type: none"> • N/A • Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features



Appendixes

Appendix G.2 Métis Nation of Ontario

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Plants – see the “Métis Nation of Ontario – Southern Ontario Métis Traditional Plant Use Study 2010” (available at www.metisnation.org) for a list of species. 	<ul style="list-style-type: none"> Effects to plants are discussed below in terms of vegetation removal. The Project is sited predominantly on actively farmed 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. Temporary access roads will be revegetated to pre-construction conditions as soon as possible following construction activities using species native to Ontario in naturally vegetated areas. Some vegetation removal will be required within a portion of the significant woodlands identified as WO-03 (Turbine 17) and WO-04 (Turbine 10). The amount of vegetation removed from WO-03 is 0.97 ha which represents 0.07% of the total area of the woodland, based on the size of the cleared area and the overall woodland size. As a result, interior habitat will be reduced from 310.31 ha to 309.97 ha. In the case of WO-04, the amount of vegetation proposed for removal is 0.42 ha, which represents 0.02% of the total area of the woodland, based on the size of the cleared area and the overall woodland size. The proposed vegetation removal will not impact the amount of interior habitat contained within WO-04. Overall, the vegetation removal represents minor intrusion into the edge of these two woodland features. NextEra has committed to compensating for this vegetation removal as outlined in the EIS detailed in the Natural Heritage Report. 	<ul style="list-style-type: none"> East Durham Wind Energy Centre Natural Heritage Assessment, November 2012
<ul style="list-style-type: none"> Water Quality <ol style="list-style-type: none"> Fish habitats / Spawning potential Drink ability Impacts Downstream / Discharge Groundwater Runoff/Effluent 	<p>Please see the rows below for details with corresponding Report/Section references provided.</p> <ol style="list-style-type: none"> Effects on fish habitat were assessed as part of the Water Assessment and Water Body Report. As no in water work is proposed and construction of turbines and access roads is not proposed within 30 m of a watercourse, potential for degradation to fish habitat is considered low. Mitigation prescribed for water bodies generally relates to the installation of underground collection lines within existing road right of ways through directional drilling and/or trenching. Mitigation and monitoring is focussed on construction activity and the control of sedimentation and erosion and release of other deleterious substances into water bodies during the construction phase. With the implementation of the recommended mitigation measures (see “groundwater” section below) effects to the quality and quantity of groundwater are anticipated to be low in likelihood and negligible in magnitude. Potential effects downstream are discussed in terms of effects on fish habitat (see above) and effects on groundwater (see below). Effects downstream are also assessed in terms of erosion, sedimentation and turbidity, changes in surface water drainage patterns, and effects from accidental spills of oils, grease or other materials. Mitigation measures to address these potential effects include: <ul style="list-style-type: none"> Develop and implement an Erosion and Sediment Control Plan before commencement of construction as per Ontario Provincial Standard Specifications (OPSD 219.130). 	<p>N/A</p> <ul style="list-style-type: none"> Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features East Durham Wind Energy Centre Water Assessment and Water Body Report, October 2012 Construction Plan Report: Table 3-6 – Mitigation Measures, Residual Effects and Monitoring Plan: Geology and Groundwater Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features

Issue/Value	Response	Corresponding Report and Section
	<ul style="list-style-type: none"> ▪ Utilize erosion blankets, erosion control fencing, straw bales, siltation bags, etc. For construction activities within 30 m of a water body, to mitigate potential excessive erosion and sedimentation. ▪ Additional erosion and sediment control materials to be kept on hand, (i.e., heavy duty silt fencing, straw bales). ▪ Maintain all sediment and erosion control measures until disturbed areas have been replanted and stabilized. ▪ Schedule grading to avoid times of high runoff volumes (spring and fall), wherever possible. Temporarily suspend work if excessive flow of sediment discharge occurs until additional mitigation measures are in place. ▪ Re-vegetate disturbed areas to pre-construction conditions as soon as possible after construction activities are complete using species native to Ontario in naturally vegetated areas. ▪ Minimize changes in land contours and natural drainage; maintain timing and quantity of flows. ▪ Any grading of lands adjacent to natural features should match existing grades at the identified set-back, or buffer from the features. ▪ Ensure machinery is maintained free of fluid leaks. ▪ Site maintenance, vehicle washing and refuelling stations where contaminants are handled at least 30 m away from natural features or water bodies. Vehicle refuelling and maintenance should be done on spill collection pads. ▪ Store any stockpiled materials at least 30 m away from a water body to prevent deleterious substances from inadvertently discharging to the environment. ▪ Develop a spill response plan and train staff on associated procedures. ▪ Maintain emergency spill kits on site. ▪ Control soil / water contamination through best management practices. ▪ Dispose of any waste material from construction activities by authorized and approved off-site vendors. 	
	<p>4. Potential effects to groundwater include:</p> <ul style="list-style-type: none"> ▪ Reduction in groundwater quality and quantity due to dewatering when excavating and constructing the turbine bases. ▪ Increase in impervious area created by the turbine base and access roads resulting in reduced infiltration near to the noted groundwater recharge areas (beach, ridge and glacial outwash deposits). <p>With the implementation of the recommended mitigation measures, the residual effects are anticipated to be low in likelihood and negligible in magnitude (for reduction in groundwater quality and quantity) and limited in magnitude (for increase in impervious surfaces). These mitigation measures include:</p> <ul style="list-style-type: none"> ▪ Restrict dewatering during extreme low flow conditions (i.e., high summer) and direct the discharge from dewatering back into the nearest watercourse (following sediment control practices) to negate the potential that drawdown will decrease baseflow into streams. 	<ul style="list-style-type: none"> • Construction Plan Report: Table 3-6 – Mitigation Measures, Residual Effects and Monitoring Plan: Geology and Groundwater

Issue/Value	Response	Corresponding Report and Section
	<ul style="list-style-type: none"> ▪ Maintain a setback of 120 m from the nearest water wells, buildings, and significant natural features. ▪ Direct runoff from the constructed impervious surfaces to ground surface to prevent any decrease in infiltration and recharge. 	
	5. Effects from runoff/effluent are discussed above in terms of impacts downstream/ discharge and groundwater.	• N/A
<ul style="list-style-type: none"> • Air Quality <ul style="list-style-type: none"> ▪ Emissions / Dust 	<ul style="list-style-type: none"> • Potential effects on air quality, including mitigation measures, are summarized in the rows below with corresponding reports/sections provided. 	• N/A
	<ul style="list-style-type: none"> • Potential effects from construction and installation activities include: <ul style="list-style-type: none"> ▪ Emissions of contaminants from portable generator sets, truck traffic and other construction vehicles, including but not limited to, nitrogen dioxide, sulphur dioxide, suspended particulates, emissions of greenhouse gases (carbon dioxide, methane); and, ▪ Dust as a result of vehicle traffic over gravel roads and/or cleared areas. • The following mitigation measures are proposed to address any effects to air quality: <ul style="list-style-type: none"> ▪ Use spray water and environmentally friendly dust suppressants applied at an environmentally acceptable rate to minimize the release of dust from gravel, paved areas and exposed soils only where necessary on problem areas; ▪ Implement a speed limit that will lead to reduced disturbance of dust on paved and unpaved roads; and, ▪ Ensure proper maintenance of vehicles and machinery to limit noise, Criteria Air Contaminant (CAC) emissions and leaks. • Construction activities may be suspended during high winds should air quality deteriorate as a result of an increase in dust or emissions. • With the implementation of the mitigation measures above, although there is a high likelihood of these effects occurring, they are anticipated to be short term and limited in magnitude. • Effects during the decommissioning phase are anticipated to be similar to those experienced during the construction phase. 	• Construction Plan Report: Table 3-7– Mitigation Measures, Residual Effects and Monitoring Plan: Emissions to Air
	<ul style="list-style-type: none"> • Potential effects from operations and maintenance activities include: <ul style="list-style-type: none"> ▪ Emissions of contaminants from maintenance vehicles and increase in dust from vehicles driving on gravel roads or cleared areas. ▪ Dust as a result of vehicle traffic over gravel roads and/or cleared areas. • The following mitigation measures are proposed to address any effects to air quality: <ul style="list-style-type: none"> ▪ Ensure all engines meet emission requirements specified by the MOE and MTO. ▪ Limit speed of maintenance vehicles to minimize dust generations. • There is a low likelihood of these effects occurring and with the implementation of the mitigation measures above; the effects are anticipated to be limited in magnitude. 	• Design and Operations Report: Table 6-6 – Mitigation Measures, Residual Effects and Monitoring Plan: Emissions to Air

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> Wildlife 	<p>Please see the rows below for details on your specific issue and the corresponding report/section.</p>	
<ul style="list-style-type: none"> 1. Flora and Fauna Populations (incl. Migratory Species) 	<ul style="list-style-type: none"> 1. Effects on flora and fauna are discussed in terms of vegetation removal (discussed above under "Plants") for construction and bird and bat mortality during turbine operation, discussed below. 	<ul style="list-style-type: none"> N/A
<ul style="list-style-type: none"> 2. Endangered/Threatened Species 	<ul style="list-style-type: none"> NextEra will develop and implement a monitoring program for bird and bat mortality consistent with <i>Birds and Bird Habitats: Guidelines for Wind Power Projects</i> (MNR, December 2011) and <i>Bats and Bat Habitats: Guidelines for Wind Power Projects</i> (MNR, July 2011). The findings of the bird and bat mortality monitoring programs will be reported back to MNR on an annual basis for the first 3 years of operation. 	<ul style="list-style-type: none"> Design and Operations Report: Table 6-3 – Mitigation Measures, Residual Effects and Monitoring Plan: Significant Wildlife Habitat
<ul style="list-style-type: none"> 3. Biodiversity Initiatives 	<ul style="list-style-type: none"> Potential effects to migratory birds are addressed through the Natural Heritage Assessment under Waterfowl Stopover and Staging Areas and Shorebird Migratory Stopover Areas. No Significant Migratory Stopover and Staging Areas were determined to be located within 120 m of the Project Location. Post-construction mortality studies for birds and bats are required for all wind energy projects in Ontario. Details of the monitoring protocol are provided above. 	<ul style="list-style-type: none"> Design and Operations Report: Table 6-2 – Mitigation Measures, Residual Effects and Monitoring plan: Natural Heritage Resources East Durham Wind Energy Centre Natural Heritage Assessment, November 2012
	<ul style="list-style-type: none"> 2. Due to the sensitive nature of information about the locations of Species at Risk, they are not identified in the Natural Heritage Assessment and Environmental Impact Study Report. Species at Risk and their habitats potentially occurring within the Study Area are being identified through field investigations, background research and in consultation with the MNR. Three species at risk were observed during field work for the East Durham Wind Energy Project. Potential effects to Species at Risk have been addressed through a Species at Risk Report submitted to the MNR. This report describes the studies conducted that relate to Species at Risk in the project area. NextEra will work with the MNR to determine if a permit is required under the Endangered Species Act, 2007. An Endangered Species Act permit is required if the proposed works will have an adverse effect on a protected species or its habitat, as determined by the MNR. Any required permits will be obtained from the MNR prior to commencing construction and any required mitigation measures or monitoring commitments will be implemented. 	<ul style="list-style-type: none"> Information pertaining to Species at Risk is documented in a stand-alone report submitted to the MNR separate from the NHA approval process (East Durham Wind Energy Centre, Species at Risk Summary Report, October 2012) Further submissions include the completion of the MNR's Information Gathering Form (IGF) and Avoidance Alternatives Form (AAF) As of January 21, 2012, the MNR is still reviewing the report and has not provided any specific feedback to the project team
	<ul style="list-style-type: none"> 3. As noted above, temporary work areas will be reseeded, as appropriate, using species native to Ontario in naturally vegetated areas. Vegetation removal at T17 represents a minor intrusion into significant wildlife habitat for Amphibian Woodland Breeding. Monitoring and Contingency Plans have been prescribed as outlined in Table 18 of the Natural Heritage Assessment. 	<ul style="list-style-type: none"> East Durham Wind Energy Centre Natural Heritage Assessment, November 2012

Issue/Value	Response	Corresponding Report and Section
<ul style="list-style-type: none"> • Aboriginal Interests <ul style="list-style-type: none"> ▪ Who and How have other aboriginal communities been consulted ▪ Have any aboriginal sensitive areas been recognized on or around the study area ▪ Archaeological Assessment ▪ 17th - 19th Century 	<ul style="list-style-type: none"> • NextEra has and is fulfilling its obligations for procedural consultation with all Aboriginal governments identified by the Director or through its own inquiries, in accordance with Ontario Regulation 359/09 and in accordance with its First Nations and Métis Relationship Policy. • An Aboriginal Consultation Report is being prepared for this project. NextEra has had ongoing dialogue with Métis Nation of Ontario and will report the results or status of those discussions as part of its Final Renewable Energy Approval application. 	<ul style="list-style-type: none"> • N/A
<ul style="list-style-type: none"> • The Study Area <ol style="list-style-type: none"> 1. Crown Land within the Study Area 2. Natural Heritage 3. Access to Waterfront 	<p>Please see the rows below for details on your specific issue and the corresponding report/section.</p> <ol style="list-style-type: none"> 1. There is no Crown Land within the Study Area. 2. Natural heritage features are reported on and assessed in the Natural Heritage Assessment and Environmental Impact Study Report and summarized in the Construction Plan and Design and Operations Report. 3. A Traffic Management Plan will be developed and submitted to the Municipalities prior to construction. In addition, the community will be notified in advance of construction delivery schedules and signs will be installed to notify road users of construction activities. 	<ul style="list-style-type: none"> • N/A • East Durham Wind Energy Centre Natural Heritage Assessment, November 2012 and Construction Plan/Design and Operations Report • Construction Plan Report: Table 3-9 – Mitigation Measures, Residual Effects and Monitoring Plan: Local and Provincial Interests, Infrastructure and Land Use
<ul style="list-style-type: none"> • Cumulative Impacts <ul style="list-style-type: none"> ▪ Direct ▪ Indirect / Surrounding Development ▪ Current ▪ Projected 	<ul style="list-style-type: none"> • The Natural Heritage Assessment provides an indication of possible impacts to species within 120 m of the Project Location and proposes mitigation measures to minimize those potential impacts. The NHA is provided to the MNR with the understanding that the MNR has the potential to consider the overall cumulative impacts from multiple projects over time. As described, post construction monitoring will occur for this project and the results will be provided to MNR for their further assessment. Under the MOE process for conducting the Water Assessment cumulative impacts are considered and documented therein. 	<ul style="list-style-type: none"> • East Durham Wind Energy Centre Natural Heritage Assessment, November 2012 • East Durham Wind Energy Centre Water Assessment and Water Body Report, October 2012
<ul style="list-style-type: none"> • Monitoring <ul style="list-style-type: none"> ▪ Construction ~ Operation ~ Decommission ▪ Long Term ▪ Flora, Fauna, Water, Air 	<ul style="list-style-type: none"> • Monitoring will occur during the construction phase for natural heritage features and surface and groundwater and during the operations phase for effects to birds and bats (discussed above). The following rows detail the monitoring plans. <p>An environmental inspector will monitor on-site conditions (i.e. erosion and sediment control, spills, flooding, etc.) where construction occurs within 30 m of a natural heritage feature on the following basis:</p> <ul style="list-style-type: none"> ▪ Weekly during active construction periods; ▪ Prior to, during and post forecasted large rainfall events (>20 millimetres in 24 hours) or significant snowmelt events (i.e., spring freshet); ▪ Daily during extended rain or snowmelt periods; and, ▪ Monthly during inactive construction periods, where the site is left alone for 30 days or longer. <p>Additional monitoring or inspections will involve ensuring that:</p> <ul style="list-style-type: none"> ▪ Only specified trees are removed where tree removal is required and no damage is caused to remaining trees during construction; 	<ul style="list-style-type: none"> • Construction Plan Report: Table 3-5– Summary of Potential Negative Effects and Proposed Mitigation Measures for Generalized Candidate Significant Wildlife Habitat • Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features

Table of Concordance

Métis Nation of Ontario



Issue/Value	Response	Corresponding Report and Section
	<ul style="list-style-type: none"> ▪ Protective fencing is intact for sediment and erosion control; ▪ Drift fences (if required to protect snake hibernaculum when snakes are emerging or returning to their habitat) are intact; ▪ Equipment is maintained free of leaks or spills; and, ▪ Directional drilling does not result in “frac-out” and if it does, to ensure that there are no effects on surface and ground water; ▪ There is no change in grade within 30 m of vernal pool locations; and, ▪ Post-construction amphibian call surveys and area searches will be conducted to identify any potential negative effects to amphibian breeding populations. If negative effects are detected, corrective measures will be taken. 	
<ul style="list-style-type: none"> • Social Impacts (i.e. to Métis “Way of Life”) 	<p>An environmental inspector or on-site ecologist will monitor on-site conditions (i.e. erosion and sediment control, spills, flooding, etc.) where construction occurs within 30 m of a watercourse on the following basis:</p> <ul style="list-style-type: none"> ▪ Weekly during active construction periods; ▪ Prior to, during and post forecasted large rainfall events (>20 millimetres in 24 hours) or significant snowmelt events (i.e., spring freshet); ▪ Daily during extended rain or snowmelt periods; and, ▪ Monthly during inactive construction periods, where the site is left alone for 30 days or longer. 	<ul style="list-style-type: none"> • Construction Plan Report: Table 3-5 – Summary of Potential Negative Effects and Proposed Mitigation Measures for Water Body Features
<ul style="list-style-type: none"> • Legacy (i.e. corporate-community relationship) 	<ul style="list-style-type: none"> • NextEra has had ongoing dialogue with Métis Nation of Ontario and will report the results or status of those discussions as part of its final Renewable Energy Approval application in the Aboriginal Consultation Report. 	<ul style="list-style-type: none"> • N/A
	<ul style="list-style-type: none"> • NextEra has developed a First Nation and Métis Relationship Policy, which is a comprehensive approach to consulting and building relationships with communities. NextEra is in the process of implementing the Policy now, including “Principle 5”, which is a commitment to exploring broader relationships with First Nation and Métis communities. 	<ul style="list-style-type: none"> • N/A



Appendixes

Appendix H

Chronologies of Contacts with Aboriginal Communities



Appendixes

Appendix H.1 Haudenosaunee Confederacy Chiefs Council

Contact Record

Projects: Adelaide, Bluewater, Bornish, Conestogo, **East Durham**, Goshen, Jericho and Summerhaven Wind Energy Centres

Communities: **Six Nations Haudenosaunee Confederacy Council (Haudenosaunee)**

Main Contacts: Chief A. MacNaughton
Haudenosaunee Confederacy Council;
Chief Bomberry, Haudenosaunee Confederacy Council
Leroy Hill, Secretary Six Nations Confederacy Council;
Hazel Hill, Acting Secretary Haudenosaunee Development Institute;
Aaron Detlor, Solicitor, Haudenosaunee Development Institute

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
- Conestogo Wind Energy Centre
- **East Durham** Wind Energy Centre
- Goshen Wind Energy Centre
- Jericho Wind Energy Centre
- Summerhaven (formerly Nanticoke) Wind Energy Centre

In compliance with Ministry of Environment filing requirements, this report has been abridged as of the date below, to focus specifically on communications about, or that included East Durham

Date	Contact By	Contact With	Description	Purpose	Follow-up and results
2010-03-03	Howard Elijah, Secretary, Oneida Council of Chiefs	Ben Greenhouse	<p>Letter from Oneida Council of Chiefs on behalf of the Haudenosaunee and stating with support of the elected of Council Oneida of Thames.</p> <p>The letter stated that, "The Oneida Council of Chiefs is communicating with you about this proposal on behalf of the Haudenosaunee (Iroquois) Confederacy. In doing so, we are supported by the elected council of the Oneida Nation of the Thames. We intend to ensure there is no confusion about our authority to work with you, and that you will not be required to duplicate your efforts with other Haudenosaunee communities or governments."</p> <ul style="list-style-type: none"> • The Council strongly support use of sustainable resources and recognized the project as consistent with their views on conservation and respect for the natural world. • Council of Chiefs' assert a treaty right under 1701 Nanfan Treaty and subsequent 1726 and 1755 clarifications. • The Treaty sets apart an area, including the Project area, for what today would be termed economic activities. • The Duty to Consult and accommodate rests with the Crown and cannot be delegated • The Haudenosaunee have a right to participate in any benefits that result from the Project <p>The letter was copied to Assistant Deputy Ministers at MOE, MOEI and MAA, but not to Oneida Nation or Six Nations elected councils.</p>	<ul style="list-style-type: none"> • Rights assertion • Information-sharing • Process 	<p>See 2010-06-03.</p> <p>It was not clear if the letter only related to Bornish or whether all NextEra projects were intended to be included. A clarification was requested by return correspondence.</p>