

CV-13-479434

Court File No. »

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

NEXTERA ENERGY CANADA, ULC

Plaintiff

- and -

ESTHER WRIGHTMAN

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

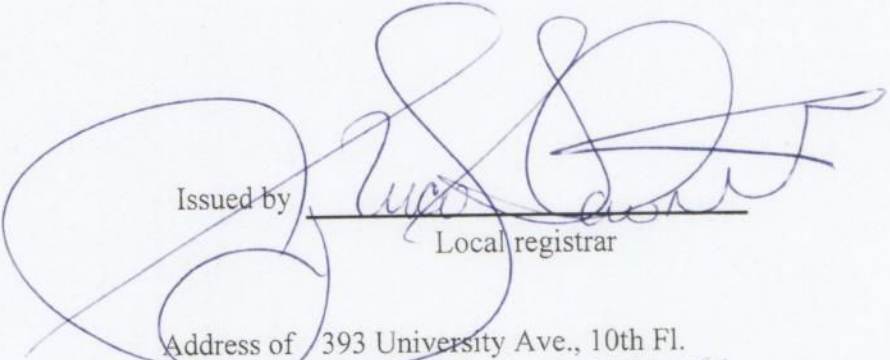
If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date May 1, 2013

Issued by


Local registrar

Address of 393 University Ave., 10th Fl.
court office Toronto, Ontario M5G 2P7 1E6

TO: Esther Wrightman
1516 Napperton Drive
Kerwood ON
N0M 2B0

CLAIM

1. The Plaintiff claims as follows:

(a) a declaration that the Defendant has:

- (i) made use, in association with wares or services, of a description that is false in a material respect and likely to mislead the public as to the character, quality, quantity or composition, the geographical origin, or the mode of the manufacture, production or performance of the wares or services;
- (ii) made a false or misleading statement tending to discredit the business, wares or services of a competitor;
- (iii) advertised her services in association with a trade-mark that was confusing with the Plaintiff's registered trade-marks; and
- (iv) used trade-marks registered by the Plaintiff in a manner that was likely to have the effect of depreciating the value of the goodwill attaching thereto,

contrary to ss. 7, 20 and 22 of the *Trade-marks Act*, R.S. 1985, c. T-13;

(b) a declaration that the Defendant has infringed the Plaintiff's copyrights contrary to ss. 3 and 27 of the *Copyright Act*, R.S. 1983, c. C-42;

(c) a declaration that the Defendant has knowingly or recklessly made representations to the public, or has permitted such representations to be made, that are false or misleading in a material respect for the purpose of promoting the Defendant's business interests, contrary to s. 52 of the *Competition Act*, R.S.C. 1985, c. C-34;

- (d) a declaration that the Defendant has engaged in injurious falsehood in respect of her mutilation of the Plaintiff's corporate name, trade-name, trade-marks and copyright logos to suggest with malice that the Plaintiff is a terrorist organization or terrorizes the community;
- (e) a declaration that the Defendant has engaged in common-law trade libel by making the above false and misleading representations in a malicious manner, thus discrediting the business, wares and services of the Plaintiff and causing the Plaintiff special damage;
- (f) a declaration that the Defendant has engaged in the common-law tort of appropriating an insignia in which the Plaintiff has a proprietary interest;
- (g) an interim, interlocutory and permanent injunction restraining the Defendant and her servants, agents and associates from:
 - (i) making use, in association with wares or services, of a description that is false in a material respect and likely to mislead the public as to the character, quality, quantity or composition, the geographical origin, or the mode of the manufacture, production or performance of the wares or services;
 - (ii) making a false or misleading statement tending to discredit the business, wares or services of a competitor;
 - (iii) advertising her services in association with a trade-mark that was confusing with the Plaintiff's registered trade-marks;
 - (iv) using trade-marks registered by the Plaintiff in a manner that was likely to have the effect of depreciating the value of the goodwill attaching thereto;

- (v) infringing the Plaintiff's copyrights contrary to ss. 3 and 27 of the *Copyright Act*, R.S. 1983, c. C-42;
 - (vi) making representations that are false or misleading in a material respect for the purpose of promoting the Defendant's business contrary to s. 52 of the *Competition Act*; and
 - (vii) engaging in further acts of injurious falsehood, trade libel or the appropriation of the Plaintiff's insignias.
- (h) damages, or an accounting of direct and indirect profits and benefits made or enjoyed by the Defendant, whichever the Plaintiff may, after proper discovery, elect for the above-mentioned infringements and violations under the *Trade-marks Act*;
- (i) damages, an accounting of direct and indirect profits and benefits made or enjoyed by the Defendant, or statutory damages taking into account the repeatedly demonstrated bad faith of the defendant, the conduct of the defendant before and during the proceedings, and the need to deter other infringements of the copyrights in question, whichever the Plaintiff may, after proper discovery, elect for the above-mentioned infringements and violations under the *Copyright Act*;
- (j) damages pursuant to s. 36 of the *Competition Act* for the loss of goodwill and reputation that has resulted from the Defendant's materially false representations regarding the Plaintiff;
- (k) damages for the torts of injurious falsehood, trade libel and appropriation of an insignia;
- (l) pre-judgment and post-judgment interest;
- (m) costs; and

(n) such further and other relief as to this Honourable Court may deem just.

A. THE PARTIES

2. The Plaintiff NextEra Energy Canada, ULC (“NextEra”) is a corporation established under the laws of Alberta and whose main business address is 390 Bay Street, Suite 1720, Toronto, Ontario M5H 2Y2.
3. Since 2006, NextEra has operated in Canada with a focus on renewable, clean energy development projects in Ontario and other provinces.
4. The Defendant Esther Wrightman is an individual residing at 1516 Napperton Drive, Kerwood, Ontario, N0M 2B0.

B. THE BUSINESS OF NEXTERA

5. Along with its related companies, NextEra is the largest generator of wind and solar power in North America, with over 100 projects in the United States and in Canada. NextEra currently operates 5 wind facilities and 2 solar facilities in Canada, with 7 more wind facilities currently under development in Ontario.
6. NextEra is committed to protecting the environment and slowing the effect of global climate change. More than 95% of the energy produced by NextEra and its related companies is derived from clean or renewable sources. Wind energy has a minimal impact on the environment, as it does not produce any greenhouse gas emissions, water emissions, or solid waste by-products. In 2011, NextEra’s wind power plants were

capable of generating clean, renewable electricity to power approximately 2 million homes.

7. In addition to these environmental benefits, NextEra also delivers economic benefits to the local communities in which it operates. Through leasing partnerships with landowners at the project level, NextEra affiliated wind farms provide diversified income to farmers, enabling them to continue using their lands for agricultural production. NextEra helps rural communities earn much-needed tax revenue to help improve public services, thereby enhancing quality of life for residents.
8. NextEra's operations are governed by a robust and extensive regulatory framework, and NextEra works closely with all levels of government and with local environmental organizations. NextEra's projects are all designed to meet or exceed all of the prescribed regulations.
9. In Ontario, NextEra's renewable energy projects generally result from a successful bid in a competitive procurement process. The Ontario Power Authority, a non-profit organization which reports to the Ministry of Energy, manages these procurement processes and enters power purchase agreements with successful bidders.
10. After a successful bid, NextEra is then required to apply for Renewable Energy Approval ("REA") from the Ontario Ministry of the Environment (the "**Ministry**") and the Ministry of Natural Resources, a process which governs the construction, installation, operation, use and retiring of each of its wind projects.

11. As part of the REA process for each wind site, an environmental assessment is conducted to determine whether the proposed location is suitable. The impact of a proposed project on cultural and heritage resources and on the natural environment is carefully considered at this stage. NextEra takes very seriously its responsibility during the REA process of ensuring that it has a complete understanding of the local environment –including wildlife – and of the human landscape: the locations of homes, businesses, schools, and heritage resources. Throughout the REA process, NextEra communicates and consults with members of the local communities to ensure that comments and concerns are addressed and questions are answered.
12. NextEra's close cooperation with the local community is not limited to the REA process; it extends from start to finish throughout the life of a project. NextEra solicits feedback, shares information, and makes every effort to ensure that its projects fit with the interests and priorities of the community. By engaging in dialogue early and often with community members, NextEra seeks to establish close, mutually beneficial relationships. These relationships are integral to NextEra's operations.
13. Despite the environmental and economic benefits of NextEra's projects, its compliance with all government regulations, and efforts at close community cooperation, NextEra nevertheless recognizes that certain individuals remain opposed to the development of renewable energy, and to wind power in particular.
14. NextEra welcomes fair, critical input from community members with regards to its operations and is always ready to engage in constructive discussions. That being said, the

nature of NextEra's business also means that the trust and goodwill of the broader communities in which it operates is of paramount importance. As such, NextEra must take appropriate steps to ensure that its intellectual property is not misused for the purposes of spreading false and damaging representations.

C. NEXTERA'S INTELLECTUAL PROPERTY

15. Since at least as early as 2009, NextEra has continuously and extensively advertised, promoted and sold its wares and services in association with numerous trade-marks, including the trade-mark NEXTERA and the following logos:



16. NextEra is the owner of 46 Canadian trade-mark registrations and numerous applications incorporating the trade-mark NEXTERA in word or design format, which are set out in Schedule "A" hereto (the "**Infringed Marks**").
17. As a result of NextEra's project development and community interaction activities described above, the Infringed Marks have become well-known and distinctive of

NextEra in Canada, and have generated significant goodwill and reputation in relation to the Wares and Services in favour of NextEra in the mind of the purchasing public in Ontario and Canada.

18. The logos contained on Schedule "A" (the "**Infringed Works**", collectively with the Infringed Marks, the "**Infringed Material**") hereto are each original artistic works whose copyrights are owned by NextEra and which were designed for NextEra's benefit.

D. THE DEFENDANT'S ACTIVITIES

19. On January 7, 2013, the Defendant uploaded a video entitled "Wind turbine company Nextera & MNR destroy Bald Eagle Nest & Habitat in Haldimand Cty, ON" (<http://www.youtube.com/watch?v=EtF6TUYfj8c>) (the "**Video**") to YouTube.com.

20. In the Video, unidentified persons (the "**Video Makers**") confront workers who are moving a nest. At the commencement of the Video, the NextEra logo is presented in large format and altered to read "NEXTERROR" ("**Offending Logo #1**"). This use of the NextEra logo is unauthorized. Offending Logo #1 is reproduced here:



21. At the end of the Video, a link is presented to the website www.ontario-wind-resistance.org ("**Website #1**"). Website #1 contains numerous postings which

prominently feature Offending Logo #1, (source image file located at <http://ontariowindresistance.files.wordpress.com/2012/07/nexterror.jpg> and <http://windaction.files.wordpress.com/2012/07/nexterror.jpg>). The Website also contains numerous appearances of the word “NextTerror” (the “**Offending Term**”), which is used to refer to NextEra.

22. On or about March 15, 2013, NextEra became aware that Website #1 contained an additional altered version of the NextEra logo and colour scheme, which was modified to read “Nextterror Bullies Canada Inc.” (“**Offending Logo #2**”) (source image file found at <http://ontariowindresistance.files.wordpress.com/2013/03/nexterrorbullies.jpg> and <http://windaction.files.wordpress.com/2013/03/nexterrorbullies.jpg>). Offending Logo #2 is reproduced here:



23. Soon afterwards, NextEra became aware that the Defendant was also responsible for presenting Offending Logo #1 and Offending Logo #2 (collectively, the “**Offending Logos**”) and the Offending Term on another website found at www.mlwindaction.org (“**Website #2**, collectively with Website #1, the “**Websites**”).
24. To date, the Defendant has not removed Offending Logo #1 from the Video or removed the Offending Term, Offending Logo #1 or Offending Logo #2 (collectively, the “**Offending Material**”) from the Websites. Examples of the infringing uses of the Offending Material are provided in the chart at Schedule “B”.

25. The Websites provide an information, political action, legal action and current events service (the “**Defendant’s Services**”). The Defendant and other parties who are not currently known to NextEra use the Websites and the Video linking to Website #1 for fundraising purposes in association with the Offending Material.
26. By way of example, the link <http://ontario-wind-resistance.org/2012/03/12/haldimand-appeal-donation-information> from Website #1 contains mail-in and online donation mechanisms to support an appeal against a NextEra project in Haldimand County known as the Summerhaven Wind Energy Centre. Similarly, the link <http://mlwindaction.org/2011/12/14/zephyr-wind-appeal-please-donate/> from Website #2 contains a personal appeal from the Defendant seeking mail-in donations to support resistance to another wind project near Watfordis, Ontario. These examples are set out in Schedule “C”.
27. All of the Offending Material is used by the Defendant and affiliated individuals or groups in association with the Defendant’s Services. The Offending Material is deliberately used to adversely affect NextEra’s reputation and goodwill in the community, to generate opposition to NextEra’s projects and to other clean energy projects in Ontario and to increase the amounts of donations obtained through the Websites.
28. Consistent with NextEra’s ongoing efforts to work towards constructive solutions with local community members, Ben Greenhouse of NextEra attempted to reach the Defendant several times by telephone on February 21, 25, 26, and on March 1 and 12, 2013 to

discuss this matter in a cooperative fashion. Mr. Greenhouse left several messages for the Defendant, informing her that NextEra wished to discuss her use of Offending Logo #1.

29. Due to the Defendant's lack of response and the escalating misuse of NextEra's intellectual property, NextEra decided to take more formal action and issued a cease and desist letter to the Defendant dated March 20, 2013 (the "**Letter**").
30. The Defendant received the Letter and on April 3, 2013 posted it on the Websites under the headline "Nexterror Energy sent me a 'cease and desist demand'. What would you do?" (found at <http://ontario-wind-resistance.org/2013/04/03/nexterror-energy-sent-me-a-cease-and-desist-demand-what-would-you-do> and <http://mlwindaction.org/2013/04/08/nexterror-energy-sent-me-a-cease-and-desist-demand-what-would-you-do/>). In the same posts, the Defendant displayed both of the Offending Logos.
31. In further posts on or about April 8, 2013, the Defendant again displayed both Offending Logos under the title "'Cease & Desist' for NexTerror Energy? No thanks." (found at <http://ontario-wind-resistance.org/2013/04/08/cease-desist-for-nexterror-energy-no-thanks/> and <http://mlwindaction.org/2013/04/08/cease-desist-for-nexterror-energy-no-thanks/>).
32. In an effort to mitigate the damage caused by the Defendant's misuse of the Infringed Material, NextEra took steps to have the Offending Logos removed from the Websites. For example, on April 10, 2013, NextEra issued a formal notice to WordPress.com, the

host service provider for both Websites, and requested that the Offending Logos be removed for copyright infringement.

33. WordPress.com representatives complied with NextEra's request, and the source image files for both Offending Logos on both Websites were made inaccessible on April 11, 2013. On April 17, 2013, however, the Defendant issued a formal counter-notification and asserted that the Offending Logos were "removed in error" and that her posting of the Offending Logos did "not infringe anyone else's rights". Despite its best efforts, WordPress.com is not in a position to mediate an intellectual property dispute, and without the relief sought in this action there is a risk that access will be restored to the Offending Logos, or that the Defendant may re-post the Offending Logos under different file names.

E. THE DEFENDANT'S FALSE REPRESENTATIONS

34. The Offending Material depicts NextEra as a terrorist organization or an organization that causes terror in the general public. The Defendant has explained in a newspaper article that she meant to communicate that NextEra "are making errors and they are **terrorizing people.**" In a blog posting, the Defendant suggested that NextEra was "terrorizing the community" by cutting down a tree with an eagle's nest, and had engaged in "terror tactics". Having regard to NextEra's actual activities described above, these representations of terrorism or terrorizing made by the Defendant are false in a material respect. As described above, NextEra is operating in full compliance with the law, including prior to the removal of the nest, is subject to a rigorous environmental impact

assessment process, has engaged in numerous public consultations, and indeed has reached out repeatedly to the Defendant for cooperative discussions.

35. The Defendant is aware or is recklessly indifferent to the fact that the term “terror” and “terrorist” is reserved for organizations with extreme and violent criminal aims. The term “terror” is associated with organizations such as Al-Qaida, Black September, Hezbollah, Islamic Jihad, Fuerzas Armadas Revolucionarias de Colombia (FARC), Aum Shinrikyo and other organizations listed by Public Safety Canada. These organizations and others have participated in acts of murder, assassination, kidnapping, torture, rape and genocide in numerous parts of the world. NextEra is a law-abiding organization that has consulted extensively in the Defendant’s community. It has committed no acts of terror or violence.
36. The use of this term in association with a clean energy company’s corporate logo in order to reap donations to oppose clean energy projects is highly offensive and damaging to NextEra.
37. The Defendant’s use of these false and misleading terms in association with NextEra’s corporate name, trade-name and logos is calculated to damage (and has already damaged) NextEra’s valuable goodwill and reputation, and make use, in association with wares or services, of a description that is false in a material respect and likely to mislead the public as to the character, quality, quantity or composition, the geographical origin, or the mode of the manufacture, production or performance of the wares or services. The Defendant knew that such uses were false, or she was reckless as to their falsity. The use of the terms was intended to injure NextEra without just cause or excuse (or the Defendant was

recklessly indifferent to such injury), thus causing pecuniary damage to NextEra and its projects in Ontario.

38. The Defendant's use of the Offending Material was also in support of her own business interests within the meaning of the *Competition Act*, that is the raising of funds through the Websites to oppose the development of wind energy in Ontario.

39. NextEra supports the speech rights of the Defendant. The only request NextEra has ever made of her is that she cease distorting, mutilating or otherwise modifying NextEra's corporate names and logos. NextEra has not asked the Defendant to cease her advocacy activities. It has not even asked the Defendant to stop using the word "terror" as long as it is not associated with a mutilation of NextEra's corporate name, trade-name or logos. She remains at liberty to vigorously oppose the wind farm projects carried out by NextEra.

40. In initiating its takedown requests with the Defendant's service providers through its agents, NextEra was careful to seek only the excision of the Offending Logos, and not to impact any other speech of the Defendant.

41. The remedies sought in this action are fully consistent with this approach. They have in no way caused "terror" in the Defendant or in anyone else. The Defendant is able, and always has been able, to bring this proceeding to an end by ceasing to mutilate NextEra's registered intellectual property and by ceasing to describe NextEra as a terrorist organization. In such case, she will remain able to advocate against NextEra's projects based on her belief that they are damaging to her community. It is plain and obvious that NextEra's approach is not that of a "terrorist" organization.

42. While NextEra is seeking to recover its damages in this action in part to incentivize the Defendant to cease her infringing and tortious activities, it is not NextEra's intent to profit from this action or even to make itself whole. As such, NextEra undertakes to donate any damages it recovers in this action to United Way Canada.

F. THE DEFENDANT'S INFRINGEMENTS AND BREACHES

43. By the Defendant's activities set out above, the Defendant is deliberately and with malice seeking to destroy the above-mentioned valuable reputation and goodwill created and enjoyed by NextEra's trade-marks and business through a series of false and malicious representations. The Defendant's activities are tarnishing the goodwill or reputation of NextEra's valuable trade-marks and its business. The Defendant is a competitor insofar as she is seeking donations in order to divert business from NextEra to other energy-producing businesses in Ontario.

44. The Defendant has carried out the aforementioned activities when she knew, or ought to have known, that these activities would be likely to cause confusion in the minds of members of the public, tarnish the goodwill of NextEra in and to its registered trade-marks, and make use of a description in association with wares or services that is false in a material respect and likely to mislead the public as to the character, quality, quantity or composition, the geographical origin, or the mode of the manufacture, production or performance of the wares or services.

45. The Offending Logos are colourable imitations of NextEra's copyright logos that the Defendant has made or dealt with in contravention of the *Copyright Act*.

46. The Defendant has committed the common-law tort of injurious falsehood by engaging in the above misrepresentations in disparagement of NextEra's goods, services and business, thus directly attacking the quality and character of NextEra's goods, services and business. The above misrepresentations were false and with actual malice, were targeted specifically at NextEra, and have caused special damage to NextEra's goodwill and reputation.
47. The Defendant has committed the statutory tort of trade libel under s. 7(a) of the *Trade-marks Act* by making the above false or misleading representations in a manner that tends to discredit the business, wares and services of NextEra, resulting in damage to NextEra, including irreparable harm to NextEra's goodwill and reputation.
48. The Defendant has committed the statutory tort of making false or misleading representations under s. 52(1) of the *Competition Act* by knowingly or recklessly misrepresenting NextEra as a terrorist organization. As described above, the Defendant's misrepresentations are in support of her own "business" within the meaning of the *Competition Act*, namely the raising of funds through the Websites to oppose the development of wind energy in Ontario. The Defendant's misrepresentations in this regard are false and misleading in a material respect, and have resulted in damage to NextEra, including irreparable harm to NextEra's goodwill and reputation.
49. The Defendant has committed the common-law tort of trade libel by making the above false and misleading representations in a malicious manner, thus discrediting the business, wares and services of NextEra and causing NextEra special damage.

50. By carrying out the aforementioned activities, the Defendant has engaged in the common-law tort of appropriating an insignia in which NextEra has a proprietary interest.

51. By publishing the Offending Material on the Internet, where it may be accessed and copied by others, the Defendant has disseminated it in a manner such as to ensure that it will be permanently available to others to falsely disparage NextEra's business. These acts of publication and dissemination are intended to cause pecuniary damage to NextEra.

52. Given all of the Defendant's activities set out above, the Defendant has:

- (a) made use, in association with wares or services, of a description that is false in a material respect and likely to mislead the public as to the character, quality, quantity or composition, the geographical origin, or the mode of the manufacture, production or performance of the wares or services;
- (b) made a false or misleading statement tending to discredit the business, wares or services of a competitor;
- (c) advertised her services in association with a trade-mark that was confusing with NextEra's registered trade-marks; and
- (d) used trade-marks registered by NextEra in a manner that was likely to have the effect of depreciating the value of the goodwill attaching thereto,

contrary to ss. 7, 20 and 22 of the *Trade-marks Act*, R.S.C. 1985, c. T-13.

53. Given all of the Defendant's activities set out above, the Defendant has infringed the copyrights of NextEra in the Infringed Works through the unauthorized production, reproduction, publication, making available, communication to the public by

telecommunication, and the distribution to such an extent as to prejudicially affect NextEra, of the Infringed Works, and by authorizing other persons to engage in such activities, contrary to ss. 3 and 27 of the *Copyright Act*.

54. Given all of the Defendant's activities set out above, the Defendant has caused harm to NextEra's reputation and goodwill through representations that are false or misleading in a material respect and which are made for the purpose of promoting the Defendant's business, contrary to ss. 36 and 52 of the *Competition Act*.
55. Given all of the Defendant's activities set out above, the Defendant has committed acts of injurious falsehood and trade libel and appropriated an insignia in which NextEra has a proprietary interest, contrary to the common law.
56. By her conduct and actions as set out herein, including through her servants and agents, and all those over whom they exercise control or with whom they act in concert, the Defendant has enabled, authorized, aided, abetted, induced, and procured others to commit the above-mentioned illegal acts.
57. The Defendant's conduct has been malicious and wilful. In particular, NextEra has reached out numerous times to request that the Defendant cease the activities complained of herein but the Defendant has refused to do so. Indeed, by filing a false and misleading counter-notice with her service provider, the Defendant has sought to continue her infringing publication of the Offending Logos. The activities of the Defendant as set out above are causing serious and immediate irreparable harm and damage to NextEra and to the valuable reputation and goodwill in NextEra's aforementioned trade-marks and

business. The Defendant threatens to continue and indeed escalate the abovementioned illegal acts unless restrained by this Honourable Court.

58. As a result of the Defendant's actions, NextEra has suffered, and is continuing to suffer, loss and damage, and the Defendant has been unjustly enriched and has earned direct and indirect profits and benefits.
59. The full particulars and extent of the Defendant's activities are currently unknown to NextEra, but are within the knowledge of the Defendant.
60. All of the acts of the Defendant mentioned herein have been carried on without the authorization, consent or licence of NextEra, and were performed with full knowledge of, and with disregard for, the rights of NextEra and the damage being caused to NextEra.
61. The Plaintiff proposes that this action be tried at Toronto.

May 1, 2013

McCarthy Tétrault LLP

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Solicitors for the Plaintiff




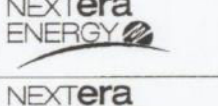


SCHEDULE 'A': Trade-mark Applications and Registrations in Canada




CANADA				
Mark	Status	Application Number	Filing Date	Associated Wares and Services
NEXTERA	Registered 4/9/09 Reg. No. TMA737,910	1367113	10/3/07	Business management and operation and maintenance of facilities all in the area of power and generating facilities; Procurement, namely, purchasing electric energy for retail and wholesale customers
NEXTERA	Registered 03/11/10 Reg. No. TMA761,469	1426592	2/3/09	trading in the field of energy and related futures and derivatives
NEXTERA	Registered 03/11/10 Reg. No. TMA761,470	1426115	1/29/09	Provision and supply of electrical energy
NEXTERA	Registered 03/11/10 Reg. No. TMA761,467	1426110	1/29/09	Generation of electrical energy
	Registered 04/14/10 Reg. No. TMA764,218	1426106	1/29/09	Provision and supply of electrical energy
	Registered 04/14/10 Reg. No. TMA764,219	1426103	1/29/09	Wholesale sale of electricity and natural gas
NEXTERA	Registered 04/20/10 Reg. No. TMA764,456	1426108	1/29/09	Wholesale sale of electricity and natural gas
	Registered 04/20/10 Reg. No. TMA764,515	1426105	1/29/09	Generation of electrical energy



NEXTERA	Registered 02/08/11 Reg. No. TMA790,058	1434422	4/14/09	Generation of electricity utilizing renewable sources; generation of electricity utilizing wind energy systems; generation of electricity utilizing solar energy systems; Generation of electricity utilizing renewable sources
	Registered 028/2/11 Reg. No. TMA790,050	1437217	05/06/09	Utility services, namely, generation, transmission and distribution of electric power in the nature of renewable energy, including solar energy, wind energy, and hydroelectric energy; Utility services, namely, generation of electric power in the nature of renewable energy
	Registered 02/08/11 Reg. No. TMA790,068	1426596	2/3/09	Trading in the field of energy and related futures and derivatives; Trading in the field of energy and related futures and derivatives
	Registered 02/08/11 Reg. No. TMA790,052	1434450	4/14/09	Generation of electricity utilizing renewable sources; generation of electricity utilizing wind energy systems; generation of electricity utilizing solar energy systems. (2) Generation of electricity utilizing renewable sources
NEXTERA	Registered 02/08/11 Reg. No. TMA790,049	1437223	05/06/09	Utility services, namely, generation, transmission and distribution of electric power in the nature of renewable energy, including solar energy, wind energy, and hydroelectric energy. (2) Utility services, namely, generation of electric power in the nature of renewable energy
	Registered 02/08/11 Reg. No. TMA790,057	1434431	4/14/09	Electricity and natural gas commodity trading for others; Electricity and natural gas commodity trading
	Registered 03/10/11 Reg. No. TMA792,540	1434432	4/14/09	Providing electricity to others
NEXTERA	Registered 03/10/11 Reg. No. TMA792,542	1434443	4/14/09	Providing electricity to others
NEXTERA	Registered 10/3/11 Reg. No. TMA792,539	1434423	4/14/09	generation of electricity; generation of electrical energy
	Registered 10/3/11 Reg. No. TMA792,537	1434449	4/14/09	generation of electricity; generation of electrical energy
NEXTERA	Registered 03/10/11 Reg. No. TMA792,536	1438238	05/14/09	public utility services, namely generation of electrical energy and electricity

	Registered 03/10/11 Reg. No. TMA792,543	1438239	05/14/09	public utility services, namely generation of electrical energy and electricity
NEXTERA	Registered 23/3/11 Reg. No. TMA793,757	1434433	4/14/09	Development of renewable energy projects; development services in the field of renewable energy projects; design of renewable energy projects; real estate site selection for renewable energy projects; land acquisition for renewable energy projects
NEXTERA	Registered 10/3/11 Reg. No. TMA792,538	1432340	3/25/09	Development of power and electricity generating facilities
	Registered 10/3/11 Reg. No. TMA792,541	1432336	3/25/09	Development of power and electricity generating facilities
NEXTERA	Registered 23/03/11 Reg. No. TMA793,749	1434420	4/14/09	Development of wind energy projects; development services in the field of wind energy projects; design of wind energy projects; real estate site selection for wind energy projects; land acquisition for wind energy projects
	Registered 23/03/11 Reg. No. TMA793,759	1434428	4/14/09	Operation, management, and maintenance of power and electricity generating facilities; business management services, namely, facilities management of technical operations of power and electricity generating facilities
NEXTERA	Registered 23/03/11 Reg. No. TMA793,754	1434439	4/14/09	Electricity and natural gas commodity trading for others; electricity and natural gas commodity trading
	Registered 23/03/11 Reg. No. TMA793,722	1457065	28/10/09	trading in the field of energy
NEXTERA	Registered 23/3/11 Reg. No. TMA793,750	1434648	4/15/09	Development of solar energy projects; development services in the field of solar energy projects; design of solar energy projects; real estate site selection for solar energy projects; land acquisition for solar energy projects
	Registered 23/3/11 Reg. No. TMA793,752	1434647	4/15/09	Development of solar energy projects; development services in the field of solar energy projects; design of solar energy projects; real estate site selection for solar energy projects; land acquisition for solar energy projects
	Registered 23/3/11 Reg. No. TMA793,752	1434427	4/14/09	Development of wind energy projects; development services in the field of wind energy projects; design of wind energy projects; real estate site selection for wind energy projects; land acquisition for wind energy projects

	Registered 3/8/11 Reg. No. TMA803,501	1434645	4/15/09	Operation, management, maintenance and repair of wind powered electric generation systems; business management services, namely, facilities management of technical operations of wind energy facilities
	Registered 3/08/11 Reg. No. TMA803,500	1434429	14/04/09	Development of renewable energy projects; development services in the field of renewable energy projects; design of renewable energy projects; real estate site selection for renewable energy projects; land acquisition for renewable energy projects
NEXTERA	Registered 23/09/11 Reg. No. TMA807,494 -	1434425	4/14/09	Transmission of electrical energy
	Registered 09/23/2011 Reg. No. TMA807,495	1434454	4/14/09	Transmission of electrical energy
	Registered 23/09/11 Reg. No. TMA807,493	1436406	4/29/09	Generation of electricity utilizing solar photovoltaic energy systems
NEXTERA	Registered 4/10/11 Reg. No. TMA808,170	1432341	3/25/09	Consulting services in the field of land development, namely, planning and laying our of power and electric generating facilities
	Registered 4/10/11 Reg. No. TMA808,172	1432337	3/25/09	Consulting services in the field of land development, namely, planning and laying out of power and electric generating facilities
NEXTERA	Registered 7/10/11 Reg. No. TMA808,535	1433206	4/1/09	Public utility electric services
NEXTERA	Registered 10/13/11 Reg. No. TMA808,921	1433207	4/1/09	Maintenance and repair of buildings, namely, power and electricity generating facilities
NEXTERA	Registered 13/10/11 Reg. No. TMA808,922	1436410	4/29/09	Generation of electricity utilizing solar photovoltaic energy systems
NEXTERA	Registered 6/1/12 Reg. No. TMA815,042	1434441	4/14/09	Operation, management, maintenance and repair of electric power systems; business management services, namely, facilities management of technical operations of energy facilities for others

NEXTERA	Registered 11/01/12 Reg. No. TMA815,391	1435890	4/24/09	Procurement, namely, purchasing energy for others.
NEXTERA	Registered 11/1/12 Reg. No. TMA815,298	1436414	04/29/09	Development of electricity transmission projects; development services in the field of electricity transmission projects; design of electricity transmission projects; real estate site selection for electricity transmission projects; land acquisition for electricity transmission projects
	Registered 11/1/12 Reg. No. TMA815,299	1436422	04/29/09	Development of electricity transmission projects; development services in the field of electricity transmission projects; design of electricity transmission projects; real estate site selection for electricity transmission projects; land acquisition for electricity transmission projects
	Registered 11/1/12 Reg. No. TMA815,390	1435886	4/24/09	Procurement, namely, purchasing energy for others
	Registered 01/11/2012 Reg. No. TMA815,384	1424206	1/12/09	Operation of a business for others, namely, operation of power and electricity generating facilities; managing and operating power and electricity generating facilities of others; maintenance and repair of buildings, namely, power and electricity generating facilities
	Formalized	1598252	10/15/12	production of natural gas and petroleum; fuels, namely, petroleum, natural gas, and liquefied natural gas
	Formalized	1598250	10/15/12	operation, management, maintenance and repair of solar power systems and parts and accessories thereto; business management services, namely, facilities management of technical operations of solar energy facilities for others; purchasing and procurement services for solar energy generation facilities, namely, procuring of contracts for others for the purchase and lease of goods and labor; supervision and inspection in the field of operation and maintenance of solar-powered electric generation facilities
	Formalized	1598249	10/15/12	electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of studying, modeling and forecasting meteorological air flow; electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of scientific analysis of wind resources, climate prediction services, meteorological forecasting services in the nature of wind modeling services, and scientific analysis of computational fluid dynamics for turbine siting; electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of monitoring meteorological conditions at energy generation facilities, including solar, wind and hydroelectric generation facilities; electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of siting

				solar, wind and hydroelectric energy generation facilities; electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of determining site suitability of solar, wind and hydroelectric energy generation facilities; electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of evaluating site suitability of potential locations for solar, wind and hydroelectric energy generation facilities; electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of forecasting output of solar, wind and hydroelectric energy generation facilities; electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of determining potential output of proposed solar, wind and hydroelectric energy generation facilities; electronic transmission of information, namely, high-speed transmission of information for purposes of operating, controlling and monitoring meteorological data collection equipment and meteorological towers
	Formalized	1598247	10/15/12	erection and installation of wind turbines; repair of parts and components of wind turbines, including gearboxes; leasing of cranes
	Formalized	1598245	10/15/12	Maintenance of meteorological data collection equipment; maintenance of meteorological towers; installation of meteorological data collection equipment; construction and installation of meteorological towers Monitoring of meteorological data collection equipment; operation of meteorological data collection equipment; monitoring of meteorological towers; operation of meteorological towers; leasing of meteorological data collection equipment; leasing of meteorological towers
	Formalized	1598244	11/16/09	electronic storage of meteorological data; and computer services, namely, electronically gathering, formatting, retrieving and analyzing meteorological data
NEXTERA	Allowed	1434419	4/14/09	research and development in the field of energy, energy technologies and energy sources and technical consultation relating thereto; financial investment in the field of energy, energy technologies and energy sources
NEXTERA	Allowed	1434447	4/14/09	procurement services, namely, purchasing electricity, electric capacity, transmission rights, fossil fuels, emission allowances and energy-related physical and financial commodities and products, namely, futures, options and swaps and derivatives thereof, to wholesale counterparties, power pools, and loads; energy management for others, namely, fuel purchasing, fuel inventory management, and fuel asset optimization
NEXTERA	Allowed	1434418	4/14/09	engineering services, technical analysis and consultation services in the field of wind farm projects, namely, analysis of

				wind resources, climate prediction services, wind modeling services, analysis of computational fluid dynamics for turbine siting, and analysis of sound levels and electromagnetic interference
NEXTERA	Allowed	1434444	4/14/09	production of natural gas and oil; fuels, namely, oil, natural gas and liquefied gas
NEXTERA	Allowed	1434649	4/15/09	operation, management, maintenance, and repair of solar power systems and parts and accessories thereto; business management services, namely, facilities management of technical operations of solar energy facilities for others; purchasing and procurement services for solar energy generation facilities, namely, procuring of contracts for others for the purchase and lease of goods and labor; supervision and inspection in the field of operation and maintenance of solar-powered electric generation facilities
NEXTERA	Allowed	1434650	4/15/09	operation, management, maintenance and repair of wind power systems and parts and accessories thereto; business management services, namely, facilities management of technical operations of wind energy facilities of others; purchasing and procurement services for wind energy generation facilities, namely, procuring of contracts for others for the purchase and lease of goods and labor; supervision and inspection in the field of operation and maintenance of wind-powered electric generation facilities
NEXTERA	Allowed	1435885	4/24/09	Public utility services, namely transmission and distribution of natural gas
	Allowed	1457073	10/28/09	Procurement, namely purchasing and procuring leasing contracts for natural gas storage and pipeline capacity for others; Transportation logistics services, namely, arranging for the distribution and transmission of natural gas and electric energy for others; import and export agency in the fields of electricity and natural gas; Financing of power purchase agreements for wholesale counterparties, power pools, and loads; Oil and liquefied natural gas brokerage; oil and liquefied natural gas commodity trading for others; Natural gas storage; natural gas storage and pipeline capacity commodity trading for others; Leasing natural gas storage and pipeline capacity
	Allowed	1457064	28/10/09	promoting public awareness of the need for renewable energy projects, energy efficiency projects, and energy conservation projects
NEXTERA	Allowed	1436430	04/29/09	Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of studying, modeling and forecasting meteorological air flow; Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of scientific analysis of wind resources, climate prediction services, meteorological forecasting services in the nature of

				wind modeling services, and scientific analysis of computational fluid dynamics for turbine siting; Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of monitoring meteorological conditions at energy generation facilities, including solar, wind and hydroelectric generation facilities; Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of siting solar, wind and hydroelectric energy generation facilities; Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of determining site suitability of solar, wind and hydroelectric energy generation facilities; Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of evaluating site suitability of potential locations for solar, wind and hydroelectric energy generation facilities; Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of forecasting output of solar, wind and hydroelectric energy generation facilities; Electronic transmission of data, namely, high-speed transmission of data from meteorological data collection equipment and meteorological towers for purposes of determining potential output of proposed solar, wind and hydroelectric energy generation facilities; Electronic transmission of information, namely, high-speed transmission of information for purposes of operating, controlling and monitoring meteorological data collection equipment and meteorological towers
NEXTERA	Allowed	1436412	04/29/09	Gas drilling services
NEXTERA	Allowed	1437221	05/06/09	Installation of solar energy systems and consulting and engineering services related thereto
NEXTERA	Allowed	1437406	05/07/09	erection and installation of wind turbines; repair of parts and components of wind turbines, including gearboxes; leasing of cranes
NEXTERA	Allowed	1459284	11/16/09	Maintenance of meteorological data collection equipment; maintenance of meteorological towers; installation of meteorological data collection equipment; construction and installation of meteorological towers; monitoring of meteorological data collection equipment; operation of meteorological data collection equipment; monitoring of meteorological towers; operation of meteorological towers; leasing of meteorological data collection equipment; leasing of meteorological towers
NEXTERA	Allowed	1459286	11/16/09	Electronic storage of meteorological data Computer services, namely, electronically gathering, formatting, retrieving and analyzing meteorological data

SCHEDULE 'B': Examples of Infringing Uses

Note: Further to NextEra's mitigation efforts described above, at the present time the Offending Logos have been made inaccessible on these webpages by WordPress.com, the hosting service provider for the Websites. Without relief from this Court, however, WordPress.com is not in a position to mediate an ongoing dispute between NextEra and the Defendant, and will restore access to the Offending Logos pursuant to its own internal policies and Terms of Use.

1. <http://ontario-wind-resistance.org/2013/04/03/nexterror-energy-sent-me-a-cease-and-desist-demand-what-would-you-do/>
2. <http://ontario-wind-resistance.org/2013/04/08/cease-desist-for-nexterror-energy-no-thanks/>
3. <http://ontario-wind-resistance.org/2013/04/20/nexterror-launches-legal-action-against-bluewater/>
4. <http://ontario-wind-resistance.org/2013/02/22/meanwhile-in-haldimand-nexterror-works-into-the-night-to-get-turbines-up/>
5. <http://ontario-wind-resistance.org/2013/03/14/bluewater-passes-434000-wind-turbine-building-permit-fee/>
6. <http://ontario-wind-resistance.org/2013/03/19/the-travelling-nexterror-bully-show-recently-in-bluewater-then-west-grey-where-next/>
7. <http://ontario-wind-resistance.org/2013/01/04/nextera-goshen-wind-final-public-meetings-january-9-10/>
8. <http://ontario-wind-resistance.org/2012/12/21/nextera-energy-eyes-more-ontario-wind-farms/>
9. <http://ontario-wind-resistance.org/2012/12/10/nexterror-wind-and-rural-fear/>
10. <http://ontario-wind-resistance.org/2012/10/10/nexterror-starts-construction-on-56-turbines-in-haldimand-county/>
11. <http://ontario-wind-resistance.org/2013/01/08/wind-turbine-company-nextera-mnr-destroy-bald-eagle-nest-habitat/>
12. <http://ontario-wind-resistance.org/2012/12/04/nexteras-jericho-final-public-meetings-feb-678/>
13. <http://ontario-wind-resistance.org/2012/09/13/get-a-job-with-nextera-they-need-help-in-the-ethics-health-departments/>

14. <http://mlwindaction.org/2013/01/14/removal-of-eagles-nest-smacks-of-big-money-corruption-mpp-barrett/>
15. <http://mlwindaction.org/2012/07/27/ministry-looking-into-wind-meeting-mixups/>
16. <http://mlwindaction.org/2013/04/08/cease-desist-for-nexterror-energy-no-thanks/>
17. <http://mlwindaction.org/2013/04/08/nexterror-energy-sent-me-a-cease-and-desist-demand-what-would-you-do/>
18. <http://mlwindaction.org/2013/03/11/nextera-threatens-legal-action-against-bluewater-township/>
19. <http://mlwindaction.org/2013/03/19/bluewater-passes-434000-wind-turbine-building-permit-fee>
20. <http://mlwindaction.org/2012/10/15/nexterror-starts-construction-on-56-turbines-in-haldimand-county/>

SCHEDULE 'C': Websites Donation Requests

Website #1: <http://ontario-wind-resistance.org/2012/03/12/haldimand-appeal-donation-information>

The screenshot shows a web browser window with the URL <http://ontario-wind-resistance.org/2012/03/12/haldimand-appeal-donation-information/>. The page title is "Haldimand Appeal Donatio...".

Ontario Wind Resistance



— Ontario PCs Promise to Scrap McGuire Green Energy Plan — Second opinion from lawyer reluctantly released to public by Huron East Council —

Haldimand Appeal Donation Information

Posted on 03/12/2012

Donate [Mail-in Donation Form](#)



Haldimand Wind Concerns is appealing the NextEra Energy project known as Summerhaven Wind Energy Centre. It was issued an approval on March 16, 2012 to install 59 wind turbines in Haldimand County. Please support HWC as we continue our efforts to protect the health, property value and beautiful quality of life of every resident in Haldimand County.



This entry was posted in [Legal](#). Bookmark the [permalink](#).

— Ontario PCs Promise to Scrap McGuire Green Energy Plan — Second opinion from lawyer reluctantly released to public by Huron East Council —

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Events
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May 2 - Petrolia
June 22 - Petrolia

File Wind Complaints Here!



Join the Conversation

- Anne Burgess McDougall on Nextera Bormish wind project approved by MOE - 45 wind turbines
- Linda N. on Nextera Bormish wind project approved by MOE - 45 wind turbines
- 1957chev on Day 15 of Ostrander Point - Nicole Kopysh (Stantec) and Andrew Taylor (Stantec)
- 1957chev on Nextera Bormish wind project approved by MOE - 45 wind turbines
- Free Thinker on Day 15 of Ostrander Point - Nicole Kopysh (Stantec) and Andrew Taylor (Stantec)
- JOHN E. FOREMAN on Ontario government traded an active eagle nest for these 3 wind turbines



MIDDLESEX-LAMBDON WIND ACTION GROUP
Citizens opposed to Aggressive Wind Turbine Development

HOME HEALTH ISSUES PROJECTS TAKE ACTION CONTACT US

Zephyr Wind Appeal: PLEASE DONATE

DEC 14

[Zephyr Wind Appeal Donation Form](#)

This is my big plea of the year. Please do what you can to help- every bit that you can give is very much appreciated.

As you may have heard, the Zephyr Wind development south of Watford is being appealed by us (Middlesex-Lambton Wind Action Group Inc.). Although this may seem small in our local eyes, it is actually a huge appeal in the province's eyes - this is where the spotlight is shining on in Ontario in the big picture, little 'ol Watford and Nyoning.

What we must all understand is that fighting against the Zephyr project (wherever you live in this province), is fighting for the project in your area as well. I don't live in the Zephyr project, but I am as concerned about this appeal as I would if it was in my back field.

Many of you may remember the Thamesville Environmental Review Tribunal appeal this spring. The wind industry and government touted it as a victory. What they didn't realize is that they actually lost. Yes, they did. The decision on July 18, after weeks of testimony from experts from around the world in Chatham states:

"This case has successfully shown that the debate should not be simplified to one about whether wind turbines can cause harm to humans. The evidence presented to the tribunal demonstrated that they can, if facilities are placed too close to residents. The debate has now evolved to one of degree."

Our lawyer is Eric Gillespie from Toronto, the same lawyer who appealed the Thamesville project, and has extensive background on this issue and has devoted years of work, fighting for our cause.

Below is a donation form with more information on the appeal. Please- print it off, read it and send a contribution to the appeal. Every donation is much appreciated- we cannot do this without your support. To double the effort, please print off a couple extra copies for friends and neighbours who are interested in fighting wind turbine development in rural Ontario.

Thank you all very much for all your help this year - we are in a better place than we were a year ago - I can count all the good things that have happened, but I need more than one hand to do it- that is a wonderful sign! Let's keep the momentum going, and help with this huge step forward in our fight.

Esther Wrightman
Middlesex-Lambton Wind Action Group Inc.

In the decision to approve the Zephyr Wind Project, the Ministry did not use a precautionary, science-based approach in its decision-making to protect human health and the environment. More specifically, despite the risk of harm to humans from industrial wind turbines the approval was granted without consultation of the Ministry's environmental scientists.

We are appealing the Zephyr approval on the following grounds:

- Industrial turbines operating at the proposed site will be located at the distance approved for 1000m from a 200m health zone and therefore will be in human health.

CATEGORIES

Select Category

UPCOMING EVENTS/NOTICES

[Awareness Table](#)
Date: April 27
Place: Petrolia Yard Sale

[Awareness Table](#)
Date: May 1
Place: Petrolia Grocery Store, Heidi's Independent Grocer

[Awareness Meeting](#)
Date: May 2
Time: 7:00pm
Place: Lambton Centennial School, [Petrolia MAP](#)
Speakers: Wallace Lang, Greg Cameron, Tammy Van Troost

[Adelaide Suncor Comments DUE](#)
Date: May 30
[Submit here](#)

[Awareness Meeting](#)
Date: June 22
Time: 3:00pm
Location: Lambton Centennial School, [Petrolia MAP](#)
Speaker: Eric Gillespie

PROJECTS

Projects

- Adelaide- NextEra
- Adelaide- Suncor
- Bornish Project
- Cedar Point Project

NEXTERA ENERGY CANADA, ULC v. ESTHER WRIGHTMAN

File No. 013-4
Court No. 979434

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

**STATEMENT OF CLAIM
OF THE PLAINTIFF**

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