



EB-2009-0290

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S. O. 1998, c.15, Schedule B;

AND IN THE MATTER OF an application for an Order granting leave to construct new transmission lines and facilities for Talbot Windfarm LP.

PROCEDURAL ORDER NO. 2

An application dated July 20, 2009 (the "Application") was filed by Talbot Windfarm LP (the "Applicant" or "Talbot") with the Ontario Energy Board (the "Board") under section 92(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, seeking an Order of the Board granting leave to construct transmission facilities. The Application has been assigned Board File No. EB-2009-0290.

The Applicant is seeking leave to construct transmission facilities for the Talbot Windfarm. The work involves constructing a 230 kilovolt ("kV") three phase transmission circuit of 10.3 km length and associated facilities to connect the windfarm to existing Hydro One Transmission line WL44C or WL45C.

On August 6, 2009, the Board issued a Notice of Application and Hearing (the "Notice"), and directed that, among other things, Talbot conduct a search of title to determine the current registered property owners who would be directly affected by the proposed construction; to serve a copy of the application and the Notice on all directly affected property owners; and to file affidavit evidence of service with the Board. Talbot did so.

On September 2, 2009 Melvin McLean sent a letter to the Board in which he stated he was president of Melvin McLean Farms Limited (the "Company") which was the sole owner of all the land located in the Municipality of Chatham-Kent, including lands affected by the Application, title to the land having been granted by way of a Crown

Patent in 1848 to Mr. McLean's ancestor, and transferred to the Company by Mr. McLean. Mr. McLean further advised that he had not been contacted by Talbot, and he had not granted them any rights to the land.

The Board has treated Mr. McLean's letter as a request for intervenor status, based on his claim of an interest in the affected land.

On September 14, 2009 Mr. McLean sent a letter to the Board attaching a copy of the Articles of Incorporation of the Company and a copy of the Crown Patent.

Copies of both letters were sent to Talbot.

On September 18, 2009, counsel for Talbot wrote to the Board (the "Talbot letter"), and advised that Talbot had reviewed the title information for all the lands for which rights were required to accommodate the proposed transmission facilities, and that neither Mr. McLean or the Company were shown in the land registry as being the owner of any of the lands. Talbot further advised that the land granted by the Crown Patent did not include all of the lands in the Municipality of Chatham-Kent and did not include any of the lands for which rights were required to accommodate the proposed transmission facilities.

A copy of this letter was provided to Mr. McLean.

On September 24, 2009 Mr. McLean sent a letter to the Board, responding to the Talbot letter. Mr. McLean disputed Talbot's interpretation of the grant, and stated that the grant encompassed all of the Crown lands in Southern Ontario, all of which were owned by the Company. Mr. McLean also included a handwritten excerpt on property law from *The Canadian Encyclopedia* (2000).

The Board has considered the letters, the Crown Patent and the excerpt on property law provided by Mr. McLean. The Board accepts the results of the title search information provided by Talbot, and finds that the lands granted by the Crown Patent, which are the west half of Lot 27 in the 7th Concession in the Township of Zone, later known as the Township of Euphemia and now in the Municipality of Chatham-Kent, are not lands affected by the Application and Mr. McLean is not a landowner who will be directly affected by the Application.

THE BOARD ORDERS THAT:

1. Mr. McLean's request for intervenor status is denied.
2. The dates stipulated in Procedural Order No.1 pertaining to the completion of proceeding are affirmed.

ISSUED at Toronto on September 25, 2009
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary