

# AIRD & BERLIS LLP

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May 15, 2013

VIA COURIER, EMAIL AND RESS

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor, Box 2329  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Wainfleet Wind Energy Inc.  
Response to Board Staff Interrogatories  
EB-2013-0031**

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Pursuant to the Board's Procedural Order No. 1 dated April 26, 2013, we enclose our Response to Board Staff Interrogatories in the above-noted proceeding.

Yours truly,

AIRD & BERLIS LLP



Scott A. Stoll

SAS/hm  
Enclosures.

cc: Harold Loeffen, the Applicant  
Tom Rankin, Rankin Construction  
Donald C. DeLorenzo, Counsel for the Township of Wainfleet  
Rudra Mukherji, Ontario Energy Board

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**WAINFLEET WIND ENERGY INC.**  
**RESPONSE TO**  
**BOARD STAFF INTERROGATORIES**  
**MAY 15, 2013**

**Interrogatory #1**

**Preamble:**

None.

**References:** Ex B/ Tab 3/ Schedule 2/page 7

**Question:**

- (a) At the above reference Wainfleet Wind Energy Inc. (the "Applicant") states that it anticipates receiving the Renewable Energy Approval in February 2013. Has the Applicant received the Renewable Energy Approval as was anticipated?
- (b) If the Applicant has not received the Renewable Energy Approval, what is the current status of the REA application and when is the approval from the Ministry of the Environment expected?
- (c) Given that the Renewable Energy Approval was expected by February 2013, does the Applicant know why approval has been delayed?

**Response:**

- (a) No the Renewable Energy Approval (REA) has not yet been received.
- (b) The application was deemed complete by the Ministry of the Environment (MOE) Dec 13, 2012 and entered the Technical Review stage of the MOE review process. This review can be completed at any time but the MOE has a service guarantee of 6 months for the review once an application has been deemed complete. This gives the applicant reasonable grounds to anticipate the REA approval will be given on or before June 13<sup>th</sup> 2013.

The projects current status can be viewed on the MOE website at the following link.

([http://www.ene.gov.on.ca/environment/en/subject/renewable\\_energy/projects/index.htm](http://www.ene.gov.on.ca/environment/en/subject/renewable_energy/projects/index.htm))

- (c) To the best of our knowledge the delays in the MOE review process have been driven by the fact that the MOE does not have sufficient resources to process the high volume of REA applications currently under review in a timely fashion. According to MOE timeframes, the completeness review is anticipated to take 30-40 days. In the case of this project took approximately 5 months with no deficiencies being identified in the application.

**Interrogatory #2**

**Preamble:**

None.

**References:** EX B/ Tab 3/ Schedule 2/page 7

**Questions:**

- (a) The Applicant plans to commence construction in the spring of 2013. Please provide the most up-to-date construction schedule?

**Response:**

- (a) Major equipment has been delivered. See Schedule Attached.

**Interrogatory # 3**

**Preamble:**

None.

**References:** Ex B/Tab 3/Schedule 1/Appendix A

**Question:**

- (a) Since this application was filed, have there been any changes to the location of the Distribution System that is the subject of this application? If there are any changes to the location of the Distribution System, please update the drawings at Appendix A. Please explain if the changes to the location will impact the ongoing REA application?

**Response:**

- (a) There are no changes to the location of the Distribution System required by the Applicant.  
  
The Applicant is willing to consider slight revisions to the route if it would be to the benefit of the Township and such route would be consistent with the current REA application and cause no delay to the Project. However, to date, no such revisions have been suggested by the Township.



#### **Interrogatory #4**

##### **Preamble:**

At the above reference the Applicant states:

"Council resolved to defer consent due to the uncertainty surrounding Wainfleet Wind's provincial approval date and outcome of the legal challenge of the Township's 2 km setback of wind turbines".

##### **References: Ex A/Tab 2/ Schedule 1/paragraph 15**

- (a) Please explain what is meant by "provincial approval date".
- (b) Now that the Court has rendered its decision with respect to the by-law, has the Applicant contacted the Township of Wainfleet ("Township") to re-start the application for Municipal Consent?
- (c) Please provide an update on the status of the Applicant's discussion with the Township in respect of the proposed Distribution System.

##### **Response:**

- (a) The provincial approval refers to the Notice to Proceed, which is granted by the Ontario Power Authority once the applicant has met certain requirements. The only requirement for the Notice to Proceed not already met by the applicant is obtaining an REA.
- (b) The Applicant has been in ongoing discussions with the Township Staff both prior to and after the Court rendered its decision. A project representative met with the town planner, road supervisor and fire chief on March 7 2013 and discussed the urgency of moving this Municipal Consent application forward. The Applicant fully intends to proceed as quickly as possible upon receipt of the necessary approvals.

The Applicant's primary point of contact with the Township has been the Director of Operations. The Director of Operations recently left this position and the Township has not yet filled this position. The Applicant has not tried to re-start the Municipal Consent process as there has been no indication that the Township Council would change their view point.

- (c) After meeting with Township Staff in March they provided an example road use agreement from another municipality for discussion purposes and the Applicant is currently reviewing it. Due to the fact that Township Staff recommended approval

of the original application and it was Township Council, which rejected it, ongoing discussions with Township Staff provide no assurance that the Township Council will provide Municipal Consent.

**Interrogatory #5**

**Preamble:**

None.

**References:** Ex B/ Tab 3/ Schedule 2

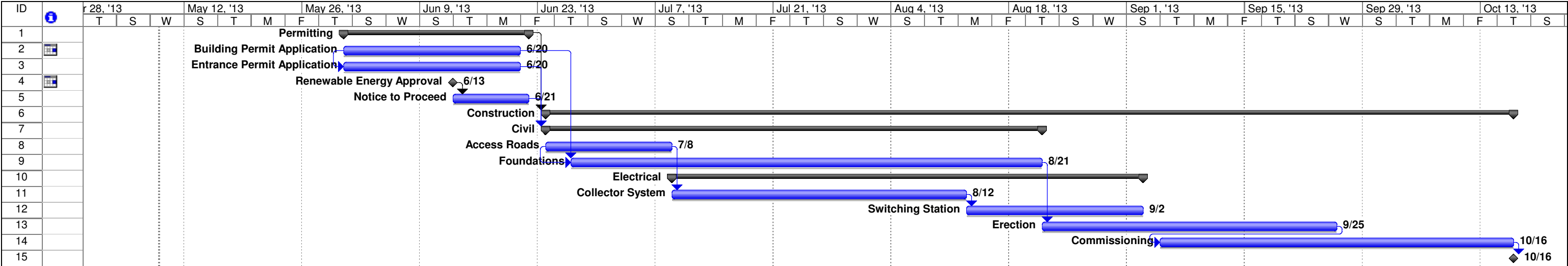
**Question:**

- (a) In all of the discussions that the Applicant has had with the Township, has the Township provided an alternate route for the proposed Distribution System?
- (b) If the Township has proposed an alternate route, please provide a description of the route (with maps if they are available) and an explanation as to why the Applicant has opted to not locate the Distribution System along the alternate route.
- (c) If all of the discussions that the Applicant has had with the Township, has the Township provided the Applicant with a statement of issues or concerns with the proposed route and location of the proposed Distribution System. If the Township has communicated its concerns to the Applicant, please submit a copy of the relevant document.

**Response**

- (a) No. Township Staff recommended approval of the original application and when rejecting the application Council provided no direction regarding any alternatives or any further consideration of the matter.
- (b) No alternate route has been proposed by the Township to the Applicant.
- (c) No. The Applicant was in contact with Township Staff prior to submitting the application and incorporated their input into the original design. Township Staff recommended approval of the original Municipal Consent application. It appears Township Council was taking issue with the project in general not with the specific application so no concerns relating to the proposed Distribution System were provided. As noted in the evidence, for more than the past year the Township Council has consistently opposed all wind projects. In addition to the setback by-law which the court struck down, the Township has requested moratoriums halting wind development and pursued an anti-wind agenda.







Project: Wainfleet Schedule SF.mpp  
Date: Thu 5/9/13

Task   
Progress 

Milestone   
Summary 

Rolled Up Task   
Rolled Up Milestone 

Rolled Up Progress   
Split 

External Tasks   
Project Summary 

Group By Summary   
Deadline 