

October 18, 2013

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RESS, EMAIL & COURIER

Ontario Energy Board
P.O. Box 2319
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Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

**Re: Dufferin Wind Power Inc. - Application for Authority to Expropriate
(EB-2013-0268) - CONFIDENTIAL**

We are counsel to the applicant, Dufferin Wind Power Inc. (the "Applicant") in the above-referenced proceeding. On October 15, 2013 the Applicant received copies of intervenor status request letters from counsel to each of [REDACTED] and [REDACTED]. The Applicant seeks clarification with respect to one of these intervention requests. In addition, the Applicant submits that the request from [REDACTED] should be denied and responds to certain matters raised in the request from the [REDACTED].

Clarification Required

With respect to the intervention on behalf of [REDACTED] land title searches carried out for purposes of service identified [REDACTED] as a potentially affected encumbrancer with an interest in the directly affected lands owned by [REDACTED]. The Applicant requests that the Board confirm whether the intervention on behalf of [REDACTED] is intended to be on behalf of the [REDACTED] identified as a potentially affected encumbrancer on in Appendix 'C' of the Application. We understand that the individual who controls [REDACTED] is also associated with a company known as [REDACTED], which was an appellant in the Applicant's Renewable Energy Approval proceeding, so we want to clarify which party is seeking intervenor status.

D&C Ferguson Farms Should be Denied Intervenor Status

The intervention request letter on behalf of [REDACTED] states that the Applicant intends to expropriate certain lands which [REDACTED] owns. That is incorrect. The Applicant does not intend to expropriate any such lands; neither [REDACTED] nor any company known as [REDACTED] is the owner of any property that is the subject of the Application. Title searches do indicate that [REDACTED] in an encumbrancer on the property that is owned by [REDACTED], which property is directly affected by the Application. In particular, [REDACTED] holds an easement on [REDACTED], which is designated as [REDACTED].

Based on the search of title, the purpose of [REDACTED] easement is to allow for connection of the company's irrigation system on lands adjacent to the easement. However, the location of the easement is not directly affected by the Application as Dufferin Wind has not sought authority to expropriate any portion of the lands on which [REDACTED] has its easement. Moreover, based on the scale of the draft plan of survey included in Appendix 'D' of the Application, it appears that the [REDACTED] easement is located approximately 450-500 meters away from the portion of the [REDACTED] property for which the Applicant seeks authority to expropriate.¹


Also of note is that [REDACTED] is controlled by an individual that has previously demonstrated general opposition to the Applicant's planned wind generation facility. In particular, the same individual controls [REDACTED], which has appealed the Applicant's Renewable Energy Approval. The Applicant is concerned that this intervention request may be directed at matters that are beyond the scope of the Board's jurisdiction in the present proceeding.

Based on the foregoing, it does not appear that [REDACTED] has any substantial interest in the Application, as is required for intervenor status under Rule 23 of the Board's Rules of Practice and Procedure. The Applicant therefore submits that this request for intervenor status should be denied.

Responses to Matters Raised in Intervention by the Blacks

With respect to paragraphs 6 and 9 of the intervenor status request on behalf of the [REDACTED] for the reasons set out in the Applicant's letter dated October 15, 2013 regarding the intervention request from Dufferin County, the Applicant submits that the Board should not order or direct the hearing, as a preliminary issue, of whether a stay of the Application should be granted. Moreover, with specific reference to paragraph 6 of the [REDACTED] intervention request, the relevant circumstances under which the Applicant seeks authority to expropriate land rights from the [REDACTED] are described on pp. 8-9 of Exhibit B, Tab 1, Schedule 1 of the Application. For the reasons described therein, the Applicant submits that it would not be appropriate for the Board to consider, as a preliminary issue, whether a stay of the Application should be granted.

Yours truly,



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cc: Mr. J. Hammond, Dufferin Wind
Mr. C. Smith, Torys LLP

¹ On the first Plan of Survey in Appendix 'D', see [REDACTED]
[REDACTED]
[REDACTED]