

[REDACTED]


---

**From:** BoardSec  
**Sent:** February 26, 2014 4:45 PM  
**To:** [REDACTED]  
**Subject:** FW: Missing attachment from Susan Binnie letter February 26, 2014  
**Attachments:** OEB 26 February, 2014.docx; ERT ADJOURNMENT 13140o5.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**From:** Susan Binnie [REDACTED]  
**Sent:** February-26-14 3:29 PM  
**To:** BoardSec  
**Subject:** Missing attachment from Susan Binnie letter February 26, 2014

Please find here the attachment referred to in a letter, sent as an attachment to a recent email to the Board Secretary.  
The letter is re-sent here to avoid confusion with the missing attachment.  
Susan Binnie



February 26, 2014

Re: File Number EB-2013-0442

Ms. Kirsten Walli, Board Secretary  
Ontario Energy Board  
P.O. Box 2319,  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

I wish to bring to your attention the following comments on the Notice of Application and Written Hearing: Application for Determination of Location of Distribution Facilities within Road Allowance Owned by the Municipality of Kawartha Lakes:

1. The above application to the Ontario Energy Board by wpd Canada appears to be premature in that the Sumac Ridge Wind Turbine project is in a state of uncertainty. Today (February 26) the Environmental Review Tribunal, before whom an appeal had been launched against this project, allowed wpd Canada a six week adjournment in order that:

[2] The Director [of Approvals at the Ministry of the Environment] shall give notice in writing to the parties and the Tribunal of his decision to revoke, amend or take no action with respect to Renewable Energy Approval No. 8037-9AYKBK issued on December 11, 2013 and new information regarding a noise receptor.

2. A copy of this notice is attached.

3. On February 3, 2014, the Director of Approvals in the Ministry of the Environment, Mr. Victor Schroeter, sent a letter stating that one turbine out of the five in the project was within 550m of a noise receptor. This implied that the turbine siting was not in conformity with the governing Regulation, O.Reg. 359/09, under the Environmental Protection Act.

4. Furthermore, the Ontario Energy Board's requirement, in its Letter of Direction addressed to Jesse Long at wpd Sumac Ridge Incorporated, and dated January 27, 2014, stated as follows:

You are directed:

1) To immediately serve a copy of the Notice along with ..... , either personally, by courier, or by registered mail on:

- a) The Clerk of the Municipality of Kawartha Lakes
- b) All directly affected landowners as well as encumbrancers: and
- c) All owners and operators of rail lines, telecommunications etc. etc.

5. There is a concern that such notices may not have been served as directed, at least not to all property holders directly affected and, possibly, not to the Municipality of Kawartha Lakes.

6. The municipal offices staff reported searching for such a notice today but had not located it. Nor is any notice posted on the wpd website as also instructed by the OEB.

7. As one example, a local property owner with 100 acres of land immediately abutting the municipal road allowance in question, Gray Road east of Highway 35, reports that she has not received such a notice. Her name is Dr. Elizabeth Salmon, and her farm entrance is on Ballyduff Road, the rear property line for the farm running along the section of Gray Road concerned in the application.

8. I therefore request that OEB records be checked to see if the required services of notice have been recorded and affidavit evidence supplied.

9. If there is uncertainty about the status of the project and if it is not clear that all concerned have been served notice of the application, then a deadline for comment 30 days after the publication date of the notice, namely January 27, 2014, is evidently unfair.

10. If there has been non-service, the deadline denies those directly involved the opportunity to intervene in the application process.

11. If notice has been correctly served, then there is concern if the application is not posted on the applicant's website in order to bring it to the attention of the public.

12. Furthermore, if either of these situations has occurred, then it is unjust that some have felt constrained to comment by today's deadline. They should be given further time.

13. Lastly, the state of uncertainty surrounding the project itself makes this application premature and inappropriate.

I hope that you will be able to launch some inquiries to help to sort out the situation and thank you in advance for your attention,

Yours sincerely,  
Susan Binnie





# Environmental Review Tribunal

Case Nos.: 13-140/13-141/13-142

## **Cham Shan Temple v. Director, Ministry of the Environment**

In the matter of appeals by Cham Shan Temple, Cransley Home Farm Limited and Manvers Wind Concerns filed December 23, 2013 for a hearing before the Environmental Review Tribunal pursuant to section 142.1 of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended, with respect to Renewable Energy Approval No. 8037-9AYKBK issued by the Director, Ministry of the Environment, on December 11, 2013 to wpd Sumac Ridge Wind Incorporated, under section 47.5 of the *Environmental Protection Act*, regarding the construction, installation, operation, use and retiring of a Class 4 wind facility with a total name plate capacity of 10.25 megawatts at a site located at 801 Ballyduff Road, Pontypool, City of Kawartha Lakes, Ontario;

In the matter of motions by the Approval Holder to exclude issues/ evidence or dismiss parts of the appeal heard on February 10, 2014 at 655 Bay Street, Toronto, Ontario;

In the matter of a motion by the Appellants, Cham Shan Temple, Cransley Home Farm Limited and Manvers Wind Concerns, to dismiss the appeals heard on February 25, 2014 at 655 Bay Street, Toronto, Ontario; and

In the matter of an adjournment on the initiative of the Tribunal pursuant to section 59 of Ontario Regulation 359/09.

### **Before:**

Paul Muldoon, Panel Chair  
Heather I. Gibbs, Vice-Chair

### **Appearances:**

- |   |   |  |
|---|---|--|
| Eric Gillespie and<br>Ian Flett                         | - | Counsel for the Appellants, Cham Shan Temple,<br>Cransley Home Farm Limited and Manvers Wind<br>Concerns |
| Andrew Weretelnky,<br>Matthew Horner and<br>Kevin Hille | - | Counsel for the Director, Ministry of the Environment  |
| Patrick Duffy and<br>James Wilson                       | - | Counsel for the Approval Holder, wpd Sumac Ridge<br>Wind Incorporated                                    |

**Dated this 26<sup>th</sup> day of February, 2014.**

**ORDER**

[1] The motion by Cham Shan Temple, Cransley Home Farm Limited and Manvers Wind Concerns (the "Appellants") heard on February 25, 2014 to dismiss the appeals under Rule 119 of the Tribunal's *Rules of Practice* is dismissed, with reasons to follow.

[2] The Tribunal adjourns the proceeding on its own initiative pursuant to s. 59(2)1(ii) of Ontario Regulation 359/09 made under the *Environmental Protection Act* to April 8, 2014, with reasons to follow. On that date, the Tribunal will review the status of the proceeding. The Case Coordinator will give notice to the parties, participants and presenters with respect to the time and location of the status review.

[3] The Director shall give notice in writing to the parties and the Tribunal of his decision to revoke, amend or take no action with respect to Renewable Energy Approval No. 8037-9AYKBK issued on December 11, 2013 and new information regarding a noise receptor. The notice shall be given as soon as practical after he has made a decision.

[4] The motions by the Approval Holder heard on February 10, 2014 to exclude issues/ evidence or dismiss parts of the appeal are dismissed without prejudice to having those motions brought again at a later time.

*Motion to Dismiss Appeals Dismissed*  
*Adjournment Ordered*  
*Procedural Directions Ordered*  
*Motions to Exclude Issues/Evidence or Dismiss Parts of the Appeal Dismissed*

"Paul Muldoon"  
Paul Muldoon, Panel Chair

"Heather I. Gibbs"  
Heather I. Gibbs, Vice-Chair