



**association to protect
AMHERST ISLAND**

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Honourable Bill Mauro
Minister of Natural Resources and Forestry
MINISTER'S OFFICE
Whitney Block
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WITHOUT PREJUDICE TO ALL OF OUR RIGHTS

Minister Mauro,

RE: Windlectric Inc. REA Industrialization of Amherst Island – Failure to Comply

Your attention is drawn to the failure of Algonquin Power / Windlectric Inc. to comply with Ministry of Natural Resources and Forestry technical requirements in its submission on Natural Heritage and Environmental Impact Assessment in support of its REA application to industrialize the environmental jewel of Lake Ontario, Amherst Island. In a nutshell, MNRF staff have simply accepted the proponent's assurances rather than conducting a compliance review or audit of field studies in relation to the Ministry's technical requirements.

Given the nine species at risk and seventeen species of concern on the Island, the designation of the entire Island as an Important Bird Area, the worldwide importance of Owl Woods for owls and wintering raptors and its international position of significance importance on the Atlantic Migratory Flyway, it is simply vital that the Ministry get this right.

Accordingly you are respectfully requested to direct Ministry staff to:

1. On the basis of a review of the attached documentation, please direct staff to withdraw the Ministry's Letter of Confirmation issued to Windlectric on December 12, 2012 prior to the public comment period for the REA application, and
2. Advise the Ministry of the Environment and Climate Change as part of its Technical Review process that further study will be required for Windlectric to achieve compliance with MNRF's technical requirements.
3. Require Windlectric to conduct field studies to document the presence of Blanding's Turtles on the Island and to apply for an Overall Benefit Permit setting out mitigation measures to assure that this species will not be harmed
4. Defer issuance of any Overall Benefit Permit under Windlectric's application EBR 011-9446 until such time as compliance with all MNRF technical requirements has been achieved

In addition to the Association's technical review I have attached the submission from Nature Canada and Ontario Nature which sets out why as Margaret Atwood says so well, "Amherst Island is the wrong place, the very wrong place for wind turbines".

Please advise a date and time when we may meet to discuss this matter of critical environmental importance. Thank you for your consideration.

Sincerely

Peter Large

Peter Large, P.Eng.
President APAI

Cc:

Ms. Agatha Garcia Wright, Director, Environmental Approvals Branch
Mr. Peter Rankin, MPP Liaison and Policy Advisor
Mr. Gord Miller, Environmental Commissioner of Ontario
Mr. Randy Hillier, MPP Lennox and Addington

Windlectric Inc. – Failure to Achieve Technical Compliance on Amherst Island

Windlectric Inc. is proposing to blanket Amherst Island with 33 wind turbines measuring over 500 feet tall (the height of the Royal Trust TD Tower in Toronto). The speed at the tip of the blade can reach up to 275 kilometers per hour. Each of the turbines has a swept area (the area covered by the blades as they spin) of 10,000 square metres, almost 2.5 acres for each turbine. The 33 proposed turbines will directly impact 82.5 acres of air space over Amherst Island.

The Stantec field studies undertaken for Windlectric in 2011 / 2012 identified the following 9 Species at Risk (SAR) as either breeding or migrating on Amherst Island: (Barn Swallow, Bobolink, Cerulean Warbler, Eastern Meadowlark, Eastern Whip-poor-Will, Least Bittern, Red Knot, Blanding's Turtle (KFN 2011 / 2012 / 2013 / 2014), and Little Brown Bat (KFN 2007)

Additionally, the following 17 Species of Concern (SOC) have been documented within the same timeframe: (Bald Eagle, Black Tern, Canada Warbler, Golden-Winged Warbler, Great Blue Heron, Hooded Warbler, Horned Grebe, N. Saw-Whet-Owl, Olive-sided Flycatcher, Peregrine Falcon, Red-headed Woodpecker, Rusty Blackbird, Short-eared Owl, Monarch Butterfly, Snapping Turtle, Painted Turtle, Milksnake)

The Windlectric Renewable Energy Approval (REA) application to blanket Amherst Island with wind turbines has been under Technical Review since 2 January 2014. The Ministry of Natural Resources Confirmation Letter dated 14 December 2012 is included in the Algonquin / Windlectric submission package.

APAI notes with concern statements made by Mr. Vic Schroter, MOE Renewable Energy Team Supervisor during an Environmental Review Tribunal for the Vineland Power Inc. project. With regards to improperly sited turbines Mr. Schroter states, "The MOE believed the turbines were 95 metres or greater from the property line," later adding "First and foremost we trust the information submitted to us by the applicant."¹

This is consistent with discussions that took place between APAI and MNR staff on 16 May 2013. Attendees included MNR employees (Dawn Walsh - Planning and Information Management Supervisor Peterborough District and Eric Prevost - Renewable Energy Planning Ecologist), representatives from the Association to Protect Amherst Island (APAI) and Kingston Field Naturalists (KFN). Minutes completed by the MNR attached.

During the May 2013 meeting Dawn Walsh confirmed that Eric Prevost's responsibilities did not include an in-depth audit of the documentation provided by the Proponent in support of their request for a Natural Resources Confirmation Letter.

¹ <http://www.niagarathisweek.com/community-story/4887581-fairfield-will-take-appeal-to-next-level-if-she-has-to/>

In other words, the Proponent states that the MNR Ecoregion 6E Guidelines were followed during the Natural Heritage Assessment (NHA) process but MNRF failed to conduct an in depth review of source documentation (field notes) to verify the accuracy of the Proponent's application of the Guidelines.

For example, some of the requirements listed in various MNR publications were adhered to with regards to investigations pertaining to Landbird Migratory Stopover Areas. However, field studies to confirm Candidate Significant Wildlife Habitat (SWH) were erroneously restricted to woodlots greater than 10 ha in size although the MNR publication *Ecoregion 6E Criterion* states that woodlots and forest fragments located along the shore and within 5 km of Lake Ontario are Candidate SWH. In other words, in the final Natural Heritage Assessment / Environmental Impact Study (NHA/EIS), Stantec, consultant for Windlectric, conducted NO field studies in woodlots that were less than 10 ha in size, thereby "missing" numerous Candidate SWH.

As the field studies serve as the basis for all reports, conclusions and eventual inclusion into the all-important Environmental Impact Study it is critical that the field studies comply with all MNR requirements.

Minister Mauro, this lack of review of compliance and audit of documentation resulted in a letter dated 4 December 2013 from then Minister of Natural Resources, David Oraziotti, to Peter Large, President of APAI states:

"As previously stated, my ministry issued its confirmation letter as the required Natural Heritage Assessment and Environmental Impact Study was completed in accordance with applicable guidelines.

Based on those items raised in your October 7, 2013 e-mail, ministry staff undertook a further review of the proponent's documentation. Through this review, my ministry again confirmed that the methodologies used by the proponent to identify Significant Wildlife Habitat, Generalized Significant Wildlife Habitat and Alternative Site Investigations are consistent with established procedures and guidelines."

Below you will find a listing identifying specific instances when MNR published requirements have not been met. Details of each item of concern listed below were provided to the MOE via the EBR Registry in the form of a Gap Analysis. This Gap Analysis was developed through an in-depth audit of field notes to document the lack of "completeness" of some of the field studies completed by Stantec.

As the Technical Review process includes REA document review by a team of inter-ministerial experts that this Gap Analysis should have been provided to your Ministry for additional review. APAI respectfully requests that your department provide information as to how MNR requirements will be addressed via the technical review process.

Identification and Assessment of Candidate Significant Wildlife Habitat

According to O. Reg. 359/09 the Proponent must identify, select for field studies and evaluate the significance of candidate significant wildlife habitat (SWH) found within the Amherst Island Wind Project Location (AIWPL). Where the Project Location is in or within 120 m of a significant or provincially significant natural feature based on evaluation of significance, an Environmental Impact Study (EIS) must be completed to identify and address, through mitigation, any potential negative environmental effects of the Project.

Per O. Reg. 359/09, the following MNR publications will inform the methodology used by the Proponent to complete the above.

- Birds and Bird Habitats: Guidelines for Wind Power Projects
- Bats and Bat Habitats: Guidelines for Wind Power Projects
- Natural Heritage Assessment Guide for Renewable Energy Projects
- Significant Wildlife Habitat Technical Guide (SWHTG)
- Significant Wildlife Habitat Eco-regional Criteria Schedules
- Ontario Wetland Evaluations System Manual
- Ecological Land Classification Manuals

Below you will find a listing identifying specific instances when MNR published requirements have not been met. Details of each item of concern listed below were provided to the MOE via the EBR Registry in the form of a Gap Analysis.

Please provide information as to how these MNR requirements listed below will be addressed via the Technical Review Process.

Landbird Migratory Stopover Area

- Field studies were erroneously restricted to woodlots greater than 10 ha in size although MNR publication Ecoregion 6E Criterion states that woodlots and forest fragments located along the shore and within 5 km of Lake Ontario are Candidate SWH.
- Spring field studies occurred prior to ELC evaluations which are designed to instruct the decision making process as to which areas to search for Candidate SWH.

Waterfowl Nesting Area

- Although Appendix K of the MNR publication Significant Wildlife Habitat Technical Guide (SWHTG) states that all Amherst Island Shorelines and its 22 wetlands are considered SWH, no waterfowl nesting areas were included in the Environmental Impact Study.. Please note, the MNR does not list Amherst Island as containing Candidate SWH, the MNR designates the island as Significant for Waterfowl.
- A total of one hour of field studies was completed on Amherst Island.

- 65 additional suitable ELC Community Class locations were identified during ELC studies that occurred post Waterfowl Nesting studies.
- Habitat assessments were erroneously limited to “large” wetlands or marshes, with “standing water” although neither criteria is listed in the MNR publication Ecoregion 6E Criterion.
- No field studies were completed on the mainland portion of the Amherst Island Wind Project Location.
- Spring field studies occurred prior to ELC evaluations which are designed to instruct the decision making process as to which areas to search for Candidate SWH.

Waterfowl Stopover and Staging Area – Terrestrial

- Although Appendix K of the MNR publication Significant Wildlife Habitat Technical Guide (SWHTG) states that all Amherst Island Shorelines and its 22 wetlands are considered Significant Wildlife Habitat, no waterfowl stopover and staging areas (terrestrial) were included in the Environmental Impact Study. Please note, the MNR does not list Amherst Island as containing Candidate SWH, the MNR designates the island as Significant for Waterfowl.
- Habitat assessments were erroneously limited to “large” wetlands or marshes although this criterion is not listed in the MNR publication Ecoregion 6E Criterion.
- No field studies were documented to have been completed on the mainland portion of the AIWEPL.
- Spring field studies occurred prior to ELC evaluations, which are designed to instruct the decision making process as to which areas to search for Candidate SWH.

Waterfowl Stopover and Staging Area - Aquatic

- Although Appendix K of the MNR publication Significant Wildlife Habitat Technical Guide (SWHTG) states that all Amherst Island Shorelines and its 22 wetlands are considered Significant Wildlife Habitat (SWH), no waterfowl stopover and staging areas (aquatic) were included in the Environmental Impact Study (EIS). Please note, the MNR does not list Amherst Island as containing Candidate Significant Wildlife Habitat (SWH), the MNR designates the island as Significant for Waterfowl.
- Habitat assessments were erroneously limited to “large” wetlands or marshes, with “open” water, and areas with standing water during a portion of the year although neither criteria is listed in the MNR publication Ecoregion 6E Criterion.
- No field studies were completed on the mainland portion of the Amherst Island Wind Project Location
- Spring field studies occurred prior to ELC evaluations, which are designed to instruct the decision making process as to which areas to search for Candidate SWH.

Marsh Breeding Bird Habitat

- Although appropriate ELC communities are spread throughout the island, all field studies were restricted to Long Point Marsh.

- Site investigations were conducted prior to ELC evaluations which are designed to instruct the decision making process as to which areas to search for candidate SWH

Turtle Wintering Area

- There is no available documentation of “specialized site investigation” as stated in the NHA/EIS.
- ELC evaluations that could have doubled as field investigations to identify turtle-wintering areas occurred at the wrong time of the year or were comprised of “roadside” investigations.
- Habitat assessments were erroneously limited to “large” areas although this criterion is not listed in the MNR publication Ecoregion 6E Criterion.
- 75 additional suitable ELC Community Class locations were identified during ELC studies.
- The Proponent does not address the fact that Project components are located within and up to 4 meters away from 7 wetlands.

Amphibian Breeding - Woodland

- Field studies that occurred prior to ELC evaluations which are designed to instruct the decision making process as to which areas to search for Candidate SWH.
- A total of 5 hours and 53 min. of Amphibian Breeding Habitat Surveys for both Woodland and Wetland habitat were completed, clearly not sufficient to adequately cover the 22 wetlands and 36 woodlands that are found on Amherst Island.
- 56 additional suitable ELC Community Class locations were identified during ELC studies that occurred post Amphibian Breeding studies
- 5 out of 7 surveys were undertaken too early in the evening, per Amphibian Monitoring Protocols.
- 4 out of 7 surveys were undertaken during wind conditions above 3 on the Beaufort Scale, unsuitable conditions for field studies per Amphibian Monitoring Protocols
- 6 out of 7 surveys were undertaken when temperatures were below those listed as optimal in the Amphibian Monitoring Protocols.

Amphibian Breeding – Wetland

- Field studies that occurred prior to ELC evaluations which are designed to instruct the decision making process as to which areas to search for Candidate SWH.
- A total of 5 hours and 53 min. of Amphibian Breeding Habitat Surveys for both Woodland and Wetland habitat were completed, clearly not sufficient to adequately cover the 22 wetlands and 36 woodlands that are found on Amherst Island.
- 71 additional suitable ELC Community Class locations were identified during ELC studies that occurred post Amphibian Breeding studies
- Habitat assessments were erroneously limited to areas with standing water although this is not a requirement of MNR publication Ecoregion 6E Criterion.
- 5 out of 7 surveys were undertaken too early in the evening, per Amphibian Monitoring Protocols.

- 4 out of 7 surveys were undertaken during wind conditions above 3 on the Beaufort Scale, unsuitable conditions for field studies per Amphibian Monitoring Protocols
- 6 out of 7 surveys were undertaken when temperatures were below those listed as optimal in the Amphibian Monitoring Protocols.

Migratory Butterfly Stopover Areas

- According to Field Notes provided in the NHA/EIS, fields surveys were NOT conducted in the areas of candidate SWH MB2 or MB3. How were these candidate SWH selected?
- Surveys were undertaken in conjunction with Staging Swallow surveys and accounted for a total of 6 hrs. and 10 min of survey time. (As there is “time” indicated on the Butterfly surveys it is impossible to ascertain the actual amount of time spent on Butterfly surveys vs. Staging Swallow surveys.)
- Surveys were conducted at the wrong time of the year (per Ecoregion 6E criterion) under somewhat cloudy conditions.
- Although Ecoregion 6E Criterion recommends multiple years of sampling, 2 field studies were undertaken in August of 2011.
- All surveys occurred along roadside locations, however many of the potential candidate migratory butterfly stopover areas are located well away from the Amherst Island roads.
- APAI identified an additional 7 potential migratory butterfly stopover areas were identified that appear to meet the criteria of Ecoregion 6E.

Alternative Site Investigation

According to the Ministry of Natural Resources (MNR) publication, Natural Heritage Assessment Guide for Renewable Energy Projects, the Proponent is obligated to meet specific requirements for alternative site investigations. Section 3.1.1 Alternatives Site Investigation Method, of the Algonquin / Windlectric NHA/EIS prepared by Stantec, the sole section dealing with this issue in the report, does not meet the requirements for Alternative Site Investigation listed in the MNR Publication Natural Heritage Assessment Guide for Renewable Energy Projects. The APAI “Site Investigation Report/Rationale for Alternative Investigation – Gap Analysis” provides specifics regarding MNR requirements that were not met. Please provide information as to how these MNR requirements will be addressed via the Technical Review Process.

In conclusion, Stantec’s Reports evidence a significant number of deficiencies in the work required to conduct the necessary studies and write the final NHA/EIS. Many deficiencies are systemic and compromise the accuracy and completeness of Stantec’s findings. APAI’s analysis indicates that in many cases, the NHA/EIS work conducted by Stantec on the Proponent’s behalf and the final NHA/EIS does not meet the requirements listed in various MNR publications. Please provide information as to how these MNR requirements will be addressed via the Technical Review Process.

Appendix A

Notes for Meeting with MNR, APAI and KFN re: Proposed Amherst Island Wind Energy Project May 16, 2013

Attendees

Association to Protect Amherst Island (APAI) - Denise Wolfe (Co-Chair), John Harrison

Kingston Field Naturalists (KFN) - Kurt Hennige

Ministry of Natural Resources (MNR) - Dawn Walsh (Co-Chair), Eric Prevost, Jamie Prentice

Summary of Discussion

- Overview of the Renewable Energy Approval (REA) Process and MNR's Role.
 - MNR provided a presentation on the REA process and MNR's role in the process. This overview also included an overview of the public consultation opportunities.
 - MNR discussed the content of the confirmation letter and how Natural Heritage Assessments are reviewed. This review ensures that the Natural Heritage Assessment is completed in accordance with MNR guidelines.
- The group generally discussed some technical details related to the submission of the REA application to the Ministry of the Environment (MOE). This discussion included:
 - MNR's confirmation letter and when it is issued in relation to the final open house. MNR advised that the NHA for the proposed project was confirmed in December 2012.
 - Status of the proponent's REA submission.
 - Confirmation that MOE solely reviews the REA submission for completeness.
 - MNR clarified that the NHA confirmation letter is only one piece of the proponent's complete REA submission.
- Concerns were expressed by the KFN related to how and when the proponent consulted, or discussed the project, with the KFN.

- KFN expressed that they have large, long-term data sets (60 years) on natural features found on Amherst Island, yet the proponent did not request KFN data early in the process.
- Concerns were raised by APAI and KFN with respect to methodologies used, and how much effort was put in by the proponent and their consultant in relation to field work for the Natural Heritage Assessment.
 - Concerns included survey efforts for turtles, amphibians and butterflies.
 - Information was also presented on alternative field investigations and how some land owners were not contacted in relation to permission to access lands for surveying activities.
 - MNR identified that those concerns and comments related to the Natural Heritage Assessment should be directed to the proponent and MOE. Public comments are an important part of MOE's REA review and decision making process.
- Significant Wildlife Habitat was discussed in relation to how it is assessed and considered through the REA regulation.
 - MNR clarified that the wildlife technical guide is used to determine what is Significant Wildlife Habitat.
 - MNR clarified that proponents can propose to construct in Significant Wildlife Habitat, if an Environmental Impacts Study (EIS) is completed. The EIS must also include proposed mitigation.
- General concerns were raised by APAI with respect to Stantec's work and conclusions. It was identified that APAI representatives believed that the results from field work were erroneous and therefore the conclusions were invalid.
- MNR briefly discussed the Endangered Species Act (ESA) including:
 - How threatened and endangered species are dealt with through the ESA, and how special concern species are considered through the NHA.
 - MNR and the group discussed having a follow-up meeting with MNR Species at Risk staff to discuss the ESA permitting review and approval process.
 - MNR also identified that we would accept information from the public as part of our review and consideration of the issuance of an ESA permit.

- The group discussed archaeological ploughing and how the archaeological assessment work occurs in relation to NHA's.
 - Concern was raised by APAI about timing of the archaeological ploughing and how it destroyed habitat unnecessarily because it happened before final layout and design of the project.

Summary of action items resulting from meeting discussions

- MNR to investigate the consideration of a second confirmation letter if there is additional or new NHA information.
- MNR to review NHA and follow-up on the status and requirement of the amphibian studies.
- MNR to review NHA and follow-up on the requirement for deer yard/linkages and associated guidelines/criteria.
- MNR to follow-up on the guidelines re: survey methods for butterfly.
- MNR to provide bat expert guide.
- MNR to circulate meeting notes for review by attendees.
- Denise to provide Dawn with specific ESA questions and concerns prior to next ESA/SAR meeting.
- Dawn to organize meeting re SAR/ESA.