



### Information Notice:

#### Title:

Windlectric Inc., Amherst Island Wind Energy Project - Permit for activities with conditions to achieve overall benefit to the species - ESA s.17(2)(c)

**EBR Registry Number:** 011-9446

#### Ministry:

Ministry of Natural Resources  
**Date Information Notice loaded to the Registry:**  
July 10, 2013

This notice was originally published on July 10, 2013.

Members of the public are invited to submit their written comments by August 9, 2013 by email to [esa.ptbo@ontario.ca](mailto:esa.ptbo@ontario.ca) and quote ER number 011-9446 in the subject line.

Please Note: All comments and submissions received become part of the public record. You will not receive a formal response to your comment, however, relevant comments received as part of the public participation process for this proposal will be considered in the decision making process for the authorization.

Some web links in this notice have been updated due to a web migration project. If you cannot access information that was previously available, you can request assistance from the contact listed in this notice. The remainder of the notice has not been altered.

**Keyword(s):** Electricity | Fish and Wildlife | Land use planning | Conservation

This notice is for your information. The Environmental Bill of Rights does not require this notice to be placed on the Environmental Registry, however, section 6 of the Act does allow the Environmental Registry to be used to share information about the environment with the public.

### Rationale for Exemption to Public Comment:

This proposal is exempted by Ontario Regulation 681/94 under the Environmental Bill of Rights as a classified proposal for an instrument, because the species for which the permit is sought is an animal.

The Ministry of Natural Resources (MNR) is voluntarily posting this notice to advise the public of the proposal and to invite the public to submit written comments on this proposal to the contact person identified in this notice.

### Description:

Windlectric Inc. has submitted a proposal in relation to an overall benefit permit under clause 17(2)(c) of the Endangered Species Act, 2007 (ESA) with respect to Bobolink, Eastern Meadowlark and Eastern Whip-poor-will habitat in order to construct a 75-megawatt wind power facility on privately owned land on Amherst Island, in Loyalist Township, County of Lennox & Addington.

### Purpose of the Notice:

The purpose of this notice is to ensure that the public is made aware of, and given an opportunity to comment on, the overall benefit permit proposal for the construction of

### Contact:

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a 75-megawatt wind power facility on privately owned land on Amherst Island, in Loyalist Township, County of Lennox & Addington. The proposed permit would be issued under clause 17(2)(c) of the ESA.

**Decision:**

This notice will be updated when more information is available.

**Other Information:**

The proposal to construct a 75-megawatt wind power facility has the potential to adversely affect Bobolink, Eastern Meadowlark and Eastern Whip-poor-will habitat. The proposed permit conditions would provide benefits that exceed the adverse effects on Bobolink, Eastern Meadowlark and Eastern Whip-poor-will habitat.

Bobolink, Eastern Meadowlark and Eastern Whip-poor-will are listed on the Species at Risk in Ontario (SARO) List, in Ontario Regulation 230/08 of the ESA, as Threatened.

Habitat protection under the ESA applies to Bobolink, Eastern Meadowlark and Eastern Whip-poor-will (subsection 10(1)).

The ESA allows some activities to proceed under a clause 17(2)(c) permit with specific conditions if: avoidance and reasonable alternatives have been considered; adverse effects will be minimized; and an overall benefit will be achieved for the species in Ontario. Providing an overall benefit to a protected species under the ESA involves undertaking actions to improve circumstances for the species in Ontario. Overall benefit is more than “no net loss” or an exchange of “like for like”. Overall benefit is grounded in the protection and recovery of the species at risk and must include more than mitigation measures or “replacing” what is lost.

The Minister may issue a permit under clause 17(2)(c) of the ESA that authorizes a person to engage in an activity that would otherwise be prohibited by section 9 or 10 of the ESA if the Minister is of the opinion that:

- (i) an overall benefit to the species will be achieved within a reasonable time through the conditions of the permit;
- (ii) reasonable alternatives have been considered, including alternatives that would not negatively affect the species, and the best alternative has been adopted; and,
- (iii) reasonable steps to minimize negative effects on individual members of the species are required by conditions of the permit.

Windlectric Inc. is proposing to construct up to a 75-megawatt wind power facility on privately owned land on Amherst Island, in Loyalist Township, County of Lennox & Addington, for the purpose of generating electricity. The wind power facility is proposed to be located within Bobolink, Eastern Meadowlark and Eastern Whip-poor-will habitat. Windlectric Inc. has applied for an overall benefit permit under clause 17(2)(c) of the ESA for the purpose of developing a wind power facility that will affect the habitats of Bobolink, Eastern Meadowlark and Eastern Whip-poor-will.

Reasonable alternatives are being considered, including ones that would not adversely affect the species, such as:

- Conducting the activity in an alternative location;
- Using alternate methods, equipment, designs, etc. for carrying out the proposed activity; and
- Adjusting timelines to avoid species specific sensitivities (e.g. active periods for the species).

Potential approaches to minimize adverse effects on individual members of Bobolink, Eastern Meadowlark and Eastern Whip-poor-will may include:

- Conducting vegetation removal and construction activities outside of the breeding bird seasons, when Bobolink, Eastern Meadowlark and Eastern Whip-poor-will would not be present on the site (i.e. August 15th to April 1st); and

- Training and educating contractors and staff on identification and appropriate action to take if encountering Bobolink, Eastern Meadowlark and Eastern Whip-poor-will

Potential approaches to achieve an overall benefit for Bobolink, Eastern Meadowlark and Eastern Whip-poor-will may include:

- Partnering with an accredited post-secondary institution to conduct research and fill knowledge gaps for Eastern Whip-poor-will;
- Conducting pre and post-construction monitoring for Eastern Whip-poor-will to assess use of the habitat by Eastern Whip-poor-will at a wind power facility;
- Securing and actively managing an area(s) to create and maintain suitable habitat for Bobolink, Eastern Meadowlark and Eastern Whip-poor-will, at least equivalent in size to the area adversely effected by the activity, for the duration of the project;
- Conducting annual monitoring of the created and/or enhanced habitat for an appropriate number of years to assess use by Bobolink, Eastern Meadowlark and Eastern Whip-poor-will.

Please note that the posting of this proposal on the Environmental Registry does not imply that a permit will be approved; a permit may only be issued where the legal requirements set out in clause 17(2)(c) of the ESA have been satisfied.

The following web-links provide additional information.

MNR's Species at Risk website

<http://www.ontario.ca/speciesatrisk>

Endangered Species Act, 2007

[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_07e06\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07e06_e.htm)

Species at Risk in Ontario (SARO) List, Ontario Regulation 230/08

[http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_080230\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080230_e.htm)

General regulations and species-specific habitat regulations under the ESA, Ontario Regulation 242/08

[http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_080242\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080242_e.htm)

Windlectric Inc. website:

[www.amherstislandwindproject.com](http://www.amherstislandwindproject.com)

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