



**association to protect
AMHERST ISLAND**

Without prejudice to all our rights

Feb. 20, 2015

Ontario Energy Board
P.O. Box 2319
2300 Yonge St, 27th Floor
Toronto, Ontario, M4P 1E4

File No. EB-2014-0300

Attn: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2014-0300 Windlectric's Proposed Amherst Island Wind Energy Project:

**APAI Response to Windlectric's Interrogatories on Evidence Submitted by the
Association to Protect Amherst Island (APAI)**

Further to Procedural Order #2 issued on January 8, 2015 please find enclosed the Association to Protect Amherst Island's response to the interrogatories filed by Windlectric Inc. on Jan. 29, 2015.

APAI is sending two copies of this response by regular mail.

Yours truly,

Original Signed By

Laurie Kilpatrick
Association to Protect Amherst Island
c/o 4175 South Shore Rd.
Stella, Ontario K0H 2S0
Telephone: 613.634.3057

cc: Parties

EB-2014-0300

APPLICANT INTERROGATORIES TO APAI**Windlectric Inc. Interrogatory #1****Reference:**

Confirmation of APAI Record of Meeting with Mr. Bob Maddocks, CAO, Loyalist Township, dated January 16, 2015 re Road Use Permit, as filed by APAI on January 19, 2015.

Preamble

In the referenced letter, Mr. Large of the APAI wrote to Mr. Bob Maddocks, Chief Administrative Officer for Loyalist Township, for the purpose of documenting matters discussed during a January 13, 2015 meeting. The letter asks Mr. Maddocks to confirm his understanding that "There has been no development on the Draft Road Use Agreement since the January 2013 open meeting held on Amherst Island." In response, Mr. Maddocks signed back the letter on January 16, 2015 confirming that such statement is accurate and reflects his conversation with Mr. Large.

Windlectric Inc. has records documenting its active negotiation of the Road Use Agreement ("RUA") with Loyalist Township staff on an ongoing basis since the January 29, 2013 town hall meeting. This includes the exchange, first of numerous draft RUA terms of reference, and later of numerous draft RUAs, between Windlectric or its legal counsel and various predecessors of Mr. Maddocks or the Township's legal counsel. In addition, Windlectric and its representatives have had a number of meetings and conference calls, and exchanged numerous emails with the Township, including its legal counsel, staff and certain of Mr. Maddocks' predecessors. These efforts culminated in Windlectric and Township staff reaching agreement on a final form of RUA on March 27, 2014, which was presented to the Township Council along with a Staff Report to Council during a closed meeting on April 14, 2014. The RUA was again considered during a May 12, 2014 closed meeting of the Township Council, but has not yet been finalized. No substantive issues have been raised by the Township on the form of RUA agreed to with staff as of March 27, 2014.

Questions/Requests

(a) Please obtain and file a copy of written confirmation from Mr. Maddocks as to whether or not Windlectric's account of the developments on the draft RUA since January 2013, as set out in the Preamble, is accurate.

(b) Please obtain and file a copy of written clarification from Mr. Maddocks as to the basis for his confirmation in the January 16, 2015 letter that "there has been no development on the Draft Road Use Agreement since the January 2013 open meeting."

APPLICANT INTERROGATORIES TO APAI

Windlectric Inc. Interrogatory #1

Response:

APAI believes the documents included in this response confirm Loyalist Township's position that:

- many of the renewable energy project reports were incomplete and further, that Council did not support projects with incomplete documentation;
- Windlectric's 2013 Draft reports were incomplete. This position was based on Council's extensive review of and comment on those reports (including extensive comments on roads provided by AECOM Engineering Consultants¹); and,
- final versions of the Windlectric Project Reports submitted by Windlectric for the EBR posting in Jan. 2014 had not, with a few small exceptions, taken the Township's comments into account.
- Loyalist Council clearly does not support renewable energy projects with incomplete documentation and this would include Windlectric's wind energy project on Amherst Island.

From the two letters provided to the OEB by Loyalist Township on Jan.16, 2015 and Feb.11, 2015, there is no evidence that Loyalist is in the late stages of development of the Roads Use Agreement as stated by Windlectric in their Application to the OEB.

1. Loyalist Township Records – 2013

1.1 On April 2, 2013 Loyalist Township Council approved the Municipal Consultation Form² prepared by the Director of Planning and Development. This report highlighted the many deficiencies and omissions in Windlectric's draft reports and advised the following:

"the consultants' reports lack detail and an approval of the project is premature until the full scope of the project including an appropriate level of detail is supplied enabling a proper assessment of impact on municipal infrastructure, the natural environment,

¹ AECOM Memorandum to Loyalist Township, see OEB site:

² Ibid

cultural heritage, and land use compatibility.”³

1.2 At the October 15, 2013 Meeting of Loyalist Township Council, Councillors adopted the following resolution:

2013.25.36 - Notice of Motion re: Energy Renewal Applications

Moved by Deputy Mayor Bresee and seconded by Councillor Porter that:

WHEREAS Loyalist Township has been selected by the Ontario Power Authority and several developers as the location for seven (7) different alternative energy projects,

AND WHEREAS Loyalist Township has repeatedly expressed support of the governments overall policy of development of alternative energy sources for the protection of future generations environmental and power requirement concerns;

AND WHEREAS the Ontario government implemented the Green Energy Act to enable alternative energy development without the resistance of so called NIMBY opposition, and in doing so effectively negated the authority vested on municipalities through the Planning Act to express local development concerns,

AND WHEREAS, Loyalist Township has previously expressed significant concern through the Environmental Review process as an active participant in the REA review,

AND WHEREAS these concerns include but are not limited to;

- 1. Sufficient study of Wildlife impacts in a nature reserve area that is immediately adjacent to the industrial wind and solar farms, and that the residents of Loyalist Township worked very hard and invested very deeply in preserving this area for species protection, specifically of raptors;*
- 2. Sufficient study of heritage and cultural preservation impacts as it relates to the many heritage homes and features throughout the Township;*
- 3. Sufficient understanding and visual impact of alternative energy features on homes, communities and the landscape of the Township and the need for greater setbacks, buffering and landscaping;*
- 4. Sufficient planning around the massive traffic, noise, dust and debris related to the development process on mainland and island communities, including the road congestion and in the case of Amherst Island affecting daily access to the ferry and including emergency consideration when roads and ferry services may be blocked, and;*

³ Ibid, Loyalist-Township-Municipal-Consultation-Form-1.pdf

5. *Sufficient planning for the decommissioning and financial responsibilities throughout the lifespan of these projects, ensuring that this burden never falls on the residential taxpayers of Loyalist Township,*

AND WHEREAS many local and external residents have voiced concerns over a number of issues that Loyalist Township does not have the resources to comment on, but fully believes that the residents' concerns need to be addressed to their satisfaction;

THEREFORE BE IT RESOLVED THAT Loyalist Township officially considers many of the alternative energy project REA applications to be incomplete, and as such; Loyalist Township states that it does not support any project with incomplete information, and;

Formally requests, in the strongest terms possible, that the Ministry of Environment, being responsible for the approval of REAs, also deems such applications incomplete, and require that the proponent resubmit with all appropriate studies and consultation completed.

Councillor Ashley requested a Recorded Vote.

RECORDED VOTE

	<i>Yays</i>	<i>Nays</i>
<i>Deputy Mayor Bresee</i>	<i>x</i>	
<i>Councillor Porter</i>	<i>x</i>	
<i>Councillor Ashley</i>		<i>x</i>
<i>Councillor Daniliunas</i>	<i>x</i>	
<i>Councillor Hegadorn (absent)</i>		
<i>Councillor Ibey</i>		<i>x</i>
<i>Mayor Lowry</i>	<i>x</i>	

Motion carried.

2. Loyalist Council Records - 2014

2.1 On March 3, 2014 Loyalist Township passed a motion accepting and approving an Administration Committee Report entitled the *Windlectric/Algonquin Renewable Energy Approval Commenting Period*.

The motion, set out below, reaffirmed the content of the Municipal Consultation Form submitted in April 2013 (highlighted text); and provided additional comments on the incompleteness of Windlectric's Final reports.

Windlectric/Algonquin Renewable Energy Approval Commenting Period

Moved by Councillor Ashley and seconded by Councillor Ibey that the Director of Planning and Development Services report, February 27, 2014 re: Windlectric/

Algonquin Renewable Energy Approval Commenting Period, be received and that the following be adopted:

- a. That the report from the Loyalist Township Heritage Committee be received and approved;*
- b. That this report and the Township's Municipal Consultation Form dated April 3, 2013 as submitted previously, for the proposed Windlectric Inc. development, be submitted to the Ministry of the Environment; and*
- c. That the following comments be submitted to the Ministry by way of letter:*
 - a) The Township believes the various studies provided lack the level of detail needed on a number of substantive issues to adequately assess the impact on municipal infrastructure, natural heritage and cultural assets on Amherst Island and therefore a renewable energy approval is premature until the concerns expressed in its municipal consultation form are addressed by Windlectric Inc.*
 - b) The updated Heritage Assessment is incomplete in respect of its assessment of all structures on Amherst Island that should be considered to have significance as built heritage assets and therefore the Ministry is hereby requested to defer approval of the proponent's application until such time the proponent has completed a further and more thorough heritage assessment.*
 - c) That the Ministry of Environment adopt and apply the Provincial Policy Statement definition of a cultural heritage landscape to better reflect the nature and extent of the Island as a singular geographical area of heritage significance.*
 - d) The current measures which the proponent has identified to mitigate potential damage to assets with heritage value are inadequate and problematic.*
 - e) When an acceptable Heritage Assessment is completed, that the Ministry of the Environment impose effective and enforceable conditions which will protect the cultural heritage assets on Amherst Island.*
 - f) The Township is in support of the Cataraqui Region Conservation Authority's recommendations in its letter of February 27th, 2014.*

Motion carried.

The Analysis section of the Administration Committee Report includes the following statement:

With the exception of the adjustments to the Heritage Assessment, the revised reports have not responded to any of the Township's concerns or comments. (P.3)

3. Loyalist Township Records - 2015

3.1 On Jan. 16, 2015, Mr. Maddocks, CAO of Loyalist Township confirmed the content of APAI's record of a meeting with APAI. (Attached)⁴

3.2 On February 11, 2015 provided the letter (Attached)⁵ to the OEB and the Parties in the OEB proceeding on Windlectric's Application.

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[Loyalist Twnship_Ltr to OEB Windlectric and APAI_20150211](#)

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[APAI_IntrEvidence_Admin_Confirmation of APAI Record of Meeting with Mr Bob Maddocks CAO Loyalist Township_Jan 16_2015_Road Use Permit_20150119](#)



**association to protect
AMHERST ISLAND**

PO Box 6, 5695 Front Road
Stella, ON K0H2S0

January, 16th, 2015

Mr. Bob Maddocks,
Chief Administrative Officer,
Loyalist Township,
263, Main Street, Odessa, ON K0H 2H0

Dear Bob,

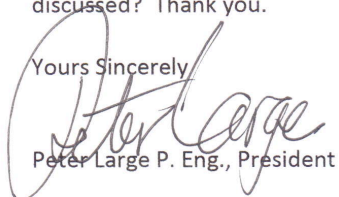
Thank you for meeting with me on Tuesday, Jan. 13th, 2015. We discussed the Windlectric proposal for a wind energy development project on Amherst Island.

My understanding is that:

- There has been no development on the Draft Road Use Agreement since the January 2013 open meeting held on Amherst Island.
- There has been no discussion between Windlectric and Loyalist Township concerning APAI's request for a Judicial Review of the Ministry of the Environment's implication that Windlectric's Renewable Energy Approval Documents were complete when released to the public in January 2013.

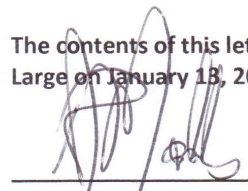
Could you please confirm that this is a true record of the substantive issues that we discussed? Thank you.

Yours Sincerely



Peter Large P. Eng., President

The contents of this letter are accurate and reflect my conversation with Mr. Peter Large on January 13, 2015.



Robert J. Maddocks
Chief Administrative Officer

1/16/2015

February 11, 2015

Ontario Energy Board Protect Box 2319, 27 th Floor Island (APAI) 2300 Yonge St. Road Toronto, Ontario M4P 1E4	Windlectric Inc., c/o Torys LLB Box 270, 79 Wellington St. W., 30 th Floor, TD South Tower Toronto, Ontario M5K 1N2	Association to Amherst Box 6, 5695 Front Stella, Ontario K0H 2S0
Att: Ms. K. Walli	Att: Mr. Jonathan Myers	Att: Mr. Peter Large

To Whom This May Concern,

Re: Windlectric Inc. - Application for Leave to Construct (EB-2014-0300)
Applicant Interrogatories on Intervenor Evidence

Please be advised that Loyalist Township Council is very concerned with comments concerning activity allegedly undertaken by Council in the past regarding the proposed renewable energy project on Amherst Island, are now being outlined in writing by Windlectric Inc. These comments are concerning alleged negotiations between these two parties, apparently held in the past. In particular, the following submission by Windlectric's legal counsel is viewed as being most disturbing to Loyalist Township Council:

"Windlectric Inc. has records documenting its active negotiation of the Road Use Agreement ("RUA") with Loyalist Township staff on an ongoing basis since the January 29, 2013 town hall meeting. This includes the exchange, first of numerous draft RUA terms of reference, and later of numerous draft RUAs, between Windlectric or its legal counsel and various predecessors of Mr. Maddocks or the Township's legal counsel. In addition, Windlectric and its representatives have had a number of meetings and conference calls, and exchanged numerous emails with the Township, including its legal counsel, staff and certain of Mr. Maddocks' predecessors. These efforts culminated in Windlectric and Township staff reaching agreement on a final form of RUA on March 27, 2014, which was presented to the Township Council along with a Staff Report to Council during a closed meeting on April 14, 2014. The RUA was again considered during a May 12, 2014 closed meeting of the Township Council, but has not yet been finalized. No substantive issues have been raised by the Township on the form of RUA agreed to with staff as of March 27, 2014."

Under the Municipal Act, Loyalist Township Council is limited to only two means of speaking, i.e. open session and closed session. In open session, Council may speak and the Clerk of the municipality shall record their deliberations, without note or comment and produce minutes which, when approved by Council, are

available to the public for viewing and review. The other means that Loyalist Township Council may speak is in closed session, under the Municipal Act, whereby all discussions, directions to staff, receipt of legal advice and all related deliberations are carried out and recorded by the Clerk in a private, confidential setting and only brought to open Council for review by the public, when directed for action and confirmation by Loyalist Council.

Loyalist Council notes that the events alleged in the above highlighted section from Windlectric, were alleged to be conducted by Council in closed session(s). As such, Council is not required to disclose or confirm any of the allegations made in the paragraph noted above, related to consideration by Council in closed session. Accordingly, any comment on the status of any negotiations, should only be considered the opinion of Windlectric, as to their perspective of any negotiations, since in no way are they permitted to speak or should be considered formulating a position endorsed by Loyalist Township Council in closed session.

As stated previously, any alleged activity undertaken by Loyalist Township Council, in closed session, should in no way be considered an accurate statement of fact. Loyalist Township Council will decide, on their own, to rise and report in open session as to the outcome of any activity that has taken place in closed session.

In conclusion, Loyalist Township Council, at the present time, offers no comment as to the legitimacy of the comments made by Windlectric in the highlighted paragraph shown above.

Yours truly,

Original signed and sent via courier

Bill Lowry
Mayor

c.c. Members of Loyalist Township Council
Robert J. Maddocks, Chief Administrative Officer

----- **END OF DOCUMENT** -----