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June 17, 2016

**VIA RESS, EMAIL AND COURIER**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
P.O. Box 2319  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Application for leave to construct amending the relief requested in EB-2013-0203**

Please find enclosed an application for leave to construct which amends the relief requested in the application filed in EB-2013-0203. This application is filed on behalf of FWRN LP and NR Capital General Partnership, as joint applicants.

Please contact the undersigned if you have any questions in regards to the foregoing.

Sincerely,

*Signed in the original*

George Vegh

Cc: Peter Ascherl, Counsel to FWRN LP and NR Capital General Partnership  
Gael Gravenor, Enercon  
Chris Carter, CAO, West Lincoln  
Paul Nunes, Corridor Management Officer, Ontario Ministry of Transportation  
Hydro One (regulatory affairs)  
IESO (regulatory affairs)

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Sch. B, as amended* (the “**OEB Act**”);

**AND IN THE MATTER OF** an application by Niagara Region Wind Corporation for an order under section 92 and subsection 96(2) of the OEB Act granting leave to construct an electricity transmission line and related facilities.

### APPLICATION SEEKING LEAVE TO CONSTRUCT TRANSMISSION FACILITIES

1. On July 3, 2014, the Ontario Energy Board (the “**OEB**” or the “**Board**”) granted Niagara Region Wind Corporation (“**NRWC**”) leave to construct a transmission line and transmission facilities (the “**Transmission Facilities**”)<sup>1</sup> for the Niagara Region Wind Farm (the “**Project**”) under section 92 and 96(2) of the OEB Act (the “**LTC Order**”). In the LTC Order, the Board also approved the forms of land use agreements proposed to be used by NRWC under section 97 of the OEB Act.
2. On September 3, 2015 the Board granted leave to transfer the LTC Order to FWRN LP<sup>2</sup> and on November 26, 2015, the Board granted leave to transfer<sup>3</sup> the LTC Order to NR Capital General Partnership (together with FWRN LP, the “**Applicants**”).<sup>4</sup>
3. In the LTC Order, the Board found that it was “in the public interest to grant [NRWC] leave to construct the Transmission Facilities pursuant to section 92 of the [OEB] Act”.<sup>5</sup>
4. Since the date of the LTC Order and as set out in detail herein, the Applicants have worked to make the construction of the transmission facilities even more aligned with the public interest than at the time of the LTC Order. More specifically, the Applicants have undertaken all the necessary studies and have obtained all approvals (aside from the one sought herein), to change the original transmission line route in two places for the sole purpose of accommodating public authorities, namely the Ministry of Transportation and the Municipality of West Lincoln.

<sup>1</sup> OEB Decision and Order in EB-2013-0203 dated July 3, 2014.

<sup>2</sup> OEB Decision and Order in EB-2015-0183, dated September 3, 2015.

<sup>3</sup> OEB Decision and Order in EB-2015-0290, dated November 26, 2015.

<sup>4</sup> As the transfer of transmission assets described in FWRN LP’s application for leave to transfer in EB-2015-0290 has not yet occurred (i.e., FWRN LP will soon be transferring the transmission assets to NR Capital General Partnership, but has not yet done so), the leave to construct is still held by FWRN LP and therefore FWRN LP is filing this application jointly with NR Capital General Partnership, to whom it will soon be transferring the leave to construct.

On June 26, 2015, the Board also varied the LTC Order to extend by six months the date by which the Applicant had to begin construction (OEB Vary Order in EB-2013-0203 dated June 26, 2015).

<sup>5</sup> See OEB Decision and Order in EB-2013-0203 dated July 3, 2014, page 14.

5. As described herein, the public record demonstrates that these two changes have been vetted by a number of public authorities through the Renewable Energy Approval (“**REA**”) process pursuant to *Ontario Regulation 359/09, Renewable Energy Approvals under Part V.0.1 of the Act* made pursuant to *Environmental Protection Act*, R.S.O. 1990, c. E.19 (the “**REA Regulation**”) and moreover, were not appealed to the Environmental Review Tribunal (“**ERT**”), demonstrating a high level of support for these two changes in the local community.
6. As set out in detail herein, the Applicants are proposing an approximately 300 meter change to accommodate the Ministry of Transportation (the “**Highway 3 Bypass**”), and an approximately 2.4 kilometer change to accommodate the Municipality of West Lincoln (the “**Smithville Bypass**”). The changes result in a 1% reduction in length of the 44km transmission line.<sup>6</sup>
7. Aside from the Highway 3 Bypass and the Smithville Bypass as described herein, the transmission line and related infrastructure will not change. Therefore, the Transmission Facilities, which were previously found by the Board to be in the public interest, would, if leave to construct for the Highway 3 Bypass and the Smithville Bypass is granted, simply be even more aligned with the public interest, given that the sole purpose of the Highway 3 Bypass and the Smithville Bypass is to accommodate the priorities of the local community as represented by public authorities and as reflected by the completion of all approval processes without appeal by members of the public.
8. In addition, the Applicants request that the Board determine this application on an expedited basis without a hearing pursuant to s. 21 of the *OEB Act, 1998*. The legal test for proceeding under s. 21 is addressed in Part IV below.
9. In addition to those factors, the project is currently approximately 85% completed, and the Project must adhere to timelines under FWRN LP’s FIT contract with the IESO. If there is a hearing, the delay and uncertainty will result in challenges to the commercial viability of the project and, combined with the necessity of meeting FIT contract timelines the project will have to proceed as per the original Leave to Construct which, as this application demonstrates, is less aligned with the public interest than the proposed amendments.
10. Therefore and pursuant to the Board’s decision and order dated June 2, 2016 wherein the Board directed the Applicants to file an amended application in respect of the Highway 3 Bypass and the Smithville Bypass, the Applicants hereby seek an order granting leave to construct the transmission facilities described herein.
11. This application is organized as follows:
  - (i) Part I describes the chronology from the time of the LTC Order to the filing of the motions in regards to the Highway 3 Bypass and the Smithville Bypass on March 14, 2016 and April 1, 2016 respectively. The main purpose of the chronology is to set out the reasons why the

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<sup>6</sup> The Highway 3 Bypass is approximately 335 meters long, and results in a reduction in transmission line length of 308 meters. The Smithville Bypass is approximately 2.4 km long, and results in a transmission line length reduction of 183 meters. This results in a total transmission line length reduction of 491 meters, which is 1.1% reduction in length of the 44 km transmission line.

Applicants could not bring this change request to the Board at an earlier date.

- (ii) Part II describes the Smithville Bypass and the Highway 3 Bypass, including how the Smithville Bypass and the Highway 3 Bypass change the original OEB-approved route.
- (iii) Part III describes the land rights, approvals and local community consultation conducted in regards to the Smithville Bypass and the Highway 3 Bypass.
- (iv) Part IV sets out a request that the Board proceed without a hearing pursuant to section 21(4)(b) of the OEB Act, including the reasons for this request. Part IV also includes a request that the Board determine this application on an expedited basis pursuant to sections 2.01 and 7.01 of the Board's *Rules of Practice and Procedure*, including the reasons for this request.
- (v) Part V sets out the reasons why this application is in the public interest and should be approved by the Board.

#### **Part I – Chronology: From the LTC Order to the Smithville Bypass and the Highway 3 Bypass**

##### ***From the LTC Order to the Smithville Bypass Proposed to the OEB***

- 12. As noted above, the Project received the LTC Order on July 3, 2014.
- 13. In September 2014, NRWC filed an application under section 41 of the *Electricity Act, 1998* in respect of the location of distribution infrastructure within municipal road allowances in three municipalities, including the Municipality of West Lincoln (“**West Lincoln**”).
- 14. Subsequently, on October 9, 2014, NRWC entered into a road use agreement with the Municipality of West Lincoln<sup>7</sup> (the “**West Lincoln Road Use Agreement**”). The road use agreement set out, *inter alia*, the agreed-upon location for NRWC’s distribution infrastructure in West Lincoln’s road allowances. NRWC later amended its section 41 application such that the section 41 application no longer requested the Board to determine the location of distribution infrastructure in West Lincoln road allowances.<sup>8</sup>
- 15. In the West Lincoln Road Use Agreement, NRWC agreed with West Lincoln to pursue: (i) an amendment to its REA, once received (NRWC subsequently received its REA on November 6, 2014) and (ii) an amendment to the LTC Order. The purpose of both amendments was to be to change the route of the transmission line such that it would bypass a new urban development area in Smithville, which is a community in

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<sup>7</sup> As advised in NRWC’s amended application for an order under section 41(9) of the *Electricity Act*, filed with the OEB on December 16, 2014.

<sup>8</sup> NRWC’s amended application for an order under section 41(9) of the *Electricity Act* was in respect of the location of road allowances in the Municipality of Wainfleet only.



West Lincoln. See section 6.1(b) of the West Lincoln Road Use Agreement, attached hereto at Schedule “A”.<sup>9</sup>

16. The modified route that NRWC agreed to study for the purpose of a REA amendment and LTC amendment is found at the final page of the West Lincoln Road Use Agreement attached at Schedule “A”.
17. Therefore, NRWC began the process of studying the route which it had agreed with West Lincoln to study for the purpose of a potential REA and LTC amendment.
18. Unfortunately, it soon became apparent that there was a problem with a portion of the unopened road allowance which West Lincoln had proposed be used for the modified route to be studied by NRWC. The portion of unopened road allowance between South Grimsby Road 6 and Regional Road 20, as circled on the map provided at Schedule “B”, was disputed by a local landowner – more specifically, while West Lincoln argued that the portion of unopened road allowance belonged to West Lincoln, the landowner argued that the portion of unopened road allowance belonged to him.
19. West Lincoln began a legal process in regards to the disputed portion of the unopened road allowance. This legal process is ongoing and is not impacted one way or another by this application.
20. During this time, on April 29, 2015, the Project was transferred from NRWC to FWRN LP.<sup>10</sup>
21. As it became apparent that the dispute regarding the portion of unopened road allowance was going to take too long before being resolved in the courts, FWRN LP and West Lincoln began to discuss alternatives to the portion of the modified route which required the disputed portion of the unopened road allowance.
22. FWRN LP continued to consider the modified route, and in particular turned to the portion of the unopened road allowance which is not disputed (i.e., the portion between Regional Road 20 and Young Street) to begin the required studies of this portion of the route.
23. In mid-2015, initial Natural Heritage assessment surveys were undertaken and found that there was a provincially significant wetland in the undisputed portion of the unopened road allowance. This led to consultations and discussions with the Ministry

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<sup>9</sup> The Road Use Agreement is also available on West Lincoln’s website at <http://westlincoln.ca/~westl172/wp-content/uploads/2014/10/Road-Use-Agreement-with-Niagara-Region-Wind-Corporation-October-14-2014.pdf>

<sup>10</sup> As advised in a joint letter to the OEB from NRWC and FWRN LP dated July 29, 2015 in support of the request to transfer the LTC Order to FWRN LP, pursuant to a reorganization, NRWC transferred the Niagara Region Wind Farm project, including the FIT contract for the project, on April 29, 2015 to FWRN LP, a newly-formed limited partnership which, at the time of the transfer, was controlled by NRWC.

Immediately following the transfer of the Niagara Region Wind Farm project to FWRN LP, pursuant to a share and unit purchase agreement between NRWC and 1022340 B.C. Ltd. (“Enercon Subco”) dated March 16, 2015, NRWC transferred 74.99% of the issued and outstanding limited partner units of FWRN LP and 100% of the shares of the sole general partner of FWRN LP to Enercon Subco.

Enercon Subco is a wholly-owned subsidiary of Enercon Canada Inc., a corporation incorporated under the laws of the Province of Nova Scotia.

of Natural Resources and Forestry, and with West Lincoln, over the summer and fall of 2015. Eventually, a solution was found which would allow for FWRN LP's transmission line to run in the unopened road allowance between Regional Road 20 and Young Street.

24. Also in Q3 to Q4 2015, other required studies including archeological studies in relation to the modified proposed route were undertaken.
25. On December 18, 2015, West Lincoln and FWRN LP met and discussed alternatives to the disputed portion of unopened road allowance. In particular, West Lincoln and FWRN LP discussed an alternate modified route that would no longer require the disputed portion of unopened road allowance, and would instead continue on South Grimsby Road 6 as per the original route to Regional Road 20, where it would turn left (instead of right) onto Regional Road 20 to reach the undisputed portion of unopened road allowance (this undisputed portion of the unopened road allowance hereinafter the **"Unopened Road Allowance"**).
26. In other words, the alternate modified route would avoid the disputed portion of unopened road allowance by running on West Lincoln's road allowance. Please see Schedule "C" for the amended modified route (i.e., the route without the disputed portion of unopened road allowance).
27. On February 23, 2016, FWRN LP submitted the REA amendment for the Smithville Bypass. However, in March 2015, FWRN LP was able to conclude a land use agreement with a landowner whose land (PIN 46055-0085) is adjacent to part of the Unopened Road Allowance. This land use agreement allowed FWRN LP to shift this particular portion of the modified transmission line route onto private property and better avoid provincially significant wetlands and a provincially significant woodlot.
28. Therefore, FWRN LP further amended the required components portions of its REA amendment in relation to the Smithville Bypass in April 2016.
29. With the Smithville Bypass finalized, on April 1, 2016, FWRN LP submitted a motion to vary to the OEB in relation to the Smithville Bypass. As demonstrated above, the reason that the motion to vary was not filed earlier was because the route of the proposed Smithville Bypass was not finalized until March 2016.

***From the LTC Order to the Highway 3 Bypass Proposed to the OEB***

30. When NRWC studied routes prior to filing its leave to construct application, NRWC was in contact with the local Ministry of Transportation office. At this time, the Ministry of Transportation ("**MTO**") did not raise objections to the route proposed for the transmission line by NRWC.
31. In 2015, when applications were made to the MTO for poles along Highway 3, the central MTO office indicated that for safety reasons and due to a possible expansion of Highway 3, it was the MTO's strong preference that poles not be located along Highway 3. More specifically, the MTO's position is that the transmission line poles must not be located within the Highway 3 right-of-way and must be set back 14 meters from the right-of-way. Please see correspondence to the Applicants from the MTO attached as Schedule "D".

32. FWRN LP therefore worked to find a way to not locate poles on Highway 3, and was able to sign, in February 2016, a land use agreement in the form approved by the Board in the LTC Order<sup>11</sup> with the landowner whose land on which the Highway 3 Bypass is proposed.
33. Because it was not until November 2015 that the MTO stated it was its strong preference that there not be poles on Highway 3, it was not possible for FWRN LP to know at an earlier date that this change would be needed. Once FWRN LP was made aware that an alternative to having poles on Highway 3 was necessary, FWRN LP worked quickly to find an alternative. That alternative is the proposed Highway 3 Bypass.

**Part II – Description of the Smithville Bypass and the Highway 3 Bypass, including the changes to the original OEB-approved route**

***Description of Smithville Bypass***

*Description of Original Route (OEB Approved Route)*

34. As shown on Schedule “E”, the original transmission line route (shown in green) currently runs northwest along Young Street and then turns south onto South Grimsby Road 5 for 1.9 km, prior to veering north on Regional Road 20 for approximately 696 meters prior to turning back southwest on South Grimsby Road 6.

*Description of the Smithville Bypass*

35. The Smithville Bypass, shown in orange on Schedule “E”, would have the transmission line running approximately 750 meters further northwest along Young Street, then turning to cross Young Street in a diagonal manner in order to avoid trees along Young Street at that location, and then turning onto a private property for 476 metres (PIN 46055-0085), then turning slightly to run along an unopened road allowance for approximately 770 metres and finally turning to run approximately 326 meters southeast along Regional Road 20 prior to joining the original transmission line route as shown.
36. The Smithville Bypass route would consist primarily of an overhead transmission line, with one section of the transmission line being installed underground beneath existing Hydro One Networks Inc. (“**Hydro One**”) transmission lines (see “Hydro One and CP Crossings”, below) and beneath a provincially significant wetland within the unopened road allowance just north of Hydro One’s transmission lines.
37. The area where the Smithville Bypass route crosses underneath a provincially significant wetland is (i) within the unopened road allowance, which road allowance belongs to the Municipality of West Lincoln and (ii) within the private property on which the Applicants propose to locate a portion of the line and in respect of which they have secured land rights from the landowner. In sum, the Smithville Bypass route goes underground for approximately 240 meters in order to avoid an above ground crossing with Hydro One’s transmission lines and to go underneath a small

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<sup>11</sup> See Niagara Region Wind Corporation Interrogatory Responses in EB-2013-0203 filed February 28, 2014, pgs. 61-109.

part of a provincially significant wetland area. Please see Schedule “F” for a detailed drawing of the plan of the crossing underneath the wetland and underneath Hydro One’s transmission lines.

### **Description of Highway 3 Bypass**

#### *Description of Original Route (OEB Approved Route)*

38. The part of the OEB-approved route which would be changed by the Highway 3 Bypass is approximately 335 meters of the approved transmission line route that runs along Highway 3 in Wainfleet, Ontario and approximately 308 meters of the approved transmission line route that runs along Wainfleet Dunnville Townline Road. This amounts to approximately 643 meters of the 44 km OEB-approved route.
39. As shown in green on Schedule “G”, the transmission line route currently runs north on Wainfleet Dunnville Townline Road and then turns east on Highway 3 for 335 meters.

#### *Description of Highway 3 Bypass*

40. The Highway 3 Bypass, shown in orange on Schedule “G”, would have the transmission line running approximately 335 meters across a private property in order to completely avoid running along Highway 3, and reducing the length of the transmission line by approximately 308 meters, including reducing the poles needed from 7 poles (see pole locations marked in yellow) to 5 poles (see pole locations marked in pink).
41. As can be seen on Schedule “G”, the transmission line would turn onto the private property just north of Buckner Road and would run on this property for 308 meters, before crossing Highway 3 in an overhead crossing that does not require any poles on Highway 3, before joining the original transmission line route on Shafley Road.

### **Part III – Land Rights, approvals, consents and consultation in regards to the Smithville Bypass and Highway 3 Bypass**

#### **Smithville Bypass**

##### Land Rights for the Smithville Bypass Obtained

##### *Rights from private landowner obtained*

42. As mentioned in the chronology above, land rights have been secured from the private landowner of the land on which a portion of the Smithville Bypass route is proposed. Specifically, an option to enter into a land use agreement, in the form approved by the OEB in the LTC Order,<sup>12</sup> has been entered into with the landowner.

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<sup>12</sup> See Niagara Region Wind Corporation Interrogatory Responses in EB-2013-0203 filed February 28, 2014, pgs. 61-109.

*West Lincoln Road Use Agreement provides for Smithville Bypass – it is to accommodate West Lincoln that Smithville Bypass is proposed*

43. The remainder of the Smithville Bypass will not require any further land rights, as the remainder of the transmission line route will simply run along West Lincoln road allowance or a West Lincoln unopened road allowance.
44. As explained above, the Applicants agreed to pursue the Smithville Bypass in the West Lincoln Road Use Agreement. As West Lincoln has itself requested the Smithville Bypass, it is entirely in agreement and supportive of this change in the use of its road allowances and the use of its unopened road allowance. In other words, the Applicants have the approval of West Lincoln to build the transmission line along the Smithville Bypass route.

#### Hydro One and CP Crossings

45. The portion of the original, OEB-approved route which the Applicants propose to change includes a Hydro One crossing and a Canadian Pacific (“CP”) railway crossing.
46. Both crossings also occur along the Smithville Bypass route. The only change to each of the Hydro One and CP crossings is that along the route of the Smithville Bypass, the crossings are located approximately 500 metres west of where these crossings occur along the OEB-approved route.
47. The technical details applicable to both the Hydro One and CP crossings do not change when these crossings are moved approximately 500 meters west. The Hydro One crossing is an underground crossing; this will remain the same when the crossing is moved approximately 500 meters west. The CP crossing is above ground; this too will not change when the crossing is moved approximately 500 meters west.

#### Approval for CP Crossing Obtained

48. The Applicants have received approval from CP for the crossing of its rail line along the route of the Smithville Bypass. Please see Schedule “H” for the CP approval.

#### Approval of Drawings by Hydro One expected shortly

49. Hydro One’s process is to review drawings in relation to crossings. Therefore, the Applicants have submitted modified drawings, along with confirmation that all required standards will be followed, to Hydro One and expect to receive a confirmation from Hydro One shortly that it finds the drawings acceptable.
50. As mentioned above, because the technical details of the crossing will not change, the Applicants are confident that Hydro One’s approval of the modified crossing drawings will be obtained. Moreover, the Applications have successfully received approval from Hydro One for two other underground crossings of Hydro One transmission lines along the route of the Transmission Facilities.
51. Moreover, the area identified as PIN 46055-0086 (which area is north of the private property on which the Applicants propose to locate a portion of the line) will also have

a small portion of the transmission line running above it. This area (i.e., PIN 46055-0086), is a Hydro One property and the Applicants will obtain the necessary approval from Hydro One to have the transmission line run above this small property.

52. For the reasons above, the Applicants submit that Hydro One will not be adversely affected in a material way due to the change in location of the crossing.

*Minimal impact on residents and users of the unopened road allowance*

53. The persons currently using the Unopened Road Allowance on which a portion of the Smithville Bypass is located will be able to continue using it.
54. More specifically, the Unopened Road Allowance is currently used as a property access road by three landowners. It is also used as a recreational trail by persons with snowmobiles and ATV/ "all-terrain vehicle" users.
55. These users of the Unopened Road Allowance will be able to continue using the Unopened Road Allowance. Although there may be a small impact on those currently using the Unopened Road Allowance during the construction of the transmission line, this impact will not, in the submission of the Applicants, amount to a material adverse effect on those using the Unopened Road Allowance.

*REA approval obtained, not appealed and consultation undertaken with the local residents*

56. As mentioned above, the Applicants have obtained the approval from the Ministry of the Environment and Climate Change ("**MOECC**") for the REA amendment needed for the Smithville Bypass.<sup>13</sup> This approval was obtained on May 6, 2016 and was not appealed to the Environmental Review Tribunal ("**ERT**") by any local resident.
57. The REA approval involved vetting by various public agencies. These agencies include the Ministry of Natural Resources, the Ministry of Tourism, Culture and Sport for both archeological studies and heritage assessment, and, of course, the MOECC. See Schedule "I" for copies of confirmation letters issued by the various public authorities further to the REA process, and Schedule J for a copy of the approval of the REA amendment by the MOECC regarding the Smithville Bypass.<sup>14</sup>

<sup>13</sup> See Schedule J for a copy of the REA approval of the amendment for the Smithville Bypass.

<sup>14</sup> The Niagara Region Wind Farm Renewable Energy Approval Amendment Modification Report for the Smithville Bypass (49 MB) is available at [http://www.nrwf.ca/wp-content/uploads/2016/01/rpt\\_50269\\_nrwf\\_rea\\_mod-rpt2\\_20160502.pdf](http://www.nrwf.ca/wp-content/uploads/2016/01/rpt_50269_nrwf_rea_mod-rpt2_20160502.pdf). The confirmation letters issued by various public authorities are attached at Schedule "I" and are also found within the REA Modification Report for the Smithville Bypass at the following page references:

Document	Date	Section/Page Reference
MNRF Confirmation	April 29, 2016	Appendix B, PDF page 60-61
MTCS Confirmation - Archaeology	March 16, 2016	Appendix C, PDF page 151-152
MTCS Confirmation - Archaeology	April 20, 2016	Appendix C, PDF page 186-187
MTCS Confirmation - Heritage	April 11, 2016	Appendix C, PDF page 221-222

58. All the above agencies found that the proposed change to the route was acceptable in relation to their sphere of jurisdiction.
59. Moreover, the REA amendment process required extensive consultation with local residents. More specifically, as detailed in the Community and Stakeholder Notification Summary attached hereto at Schedule “K”, the Notice of a Proposed Change to a Renewable Energy Project (the “**Smithville Notice**”), which notice is attached at Schedule “L” and which notice shows the proposed change to the transmission line route, was distributed to agencies, municipalities, Aboriginal communities and community members that are on the Project’s distribution list.
60. In addition, the Notice was published in ten local newspapers on two dates, as set out on page 3 of the Community and Stakeholder Notification Summary at Schedule “K”.
61. In addition, the West Lincoln Road Use Agreement is also posted on West Lincoln’s website, and discussions regarding the change in route has been set out in municipal council minutes, which are also posted on West Lincoln’s website.
62. Finally, landowners along the route of the Smithville Bypass have all received tree-trimming notices.

*Codes and standards to be complied with*

63. All electrical equipment and systems for the Smithville Bypass will be designed, supplied and installed in accordance with the latest editions of relevant codes and standards, including the Ontario Electrical Safety Code issued by the Electrical Safety Authority.

**Highway 3 Bypass**

*Land Rights obtained for Highway 3 Bypass*

64. Land rights have been secured from the owner of the land on which the Highway 3 Bypass is proposed. Specifically, a land use agreement, in the form approved by the OEB in the LTC Order<sup>15</sup>, has been entered into with the landowner.

*No utility crossings along the Highway 3 Bypass*

65. There are no utility crossings along the Highway 3 Bypass route.

*The Highway 3 Bypass Minimizes LDC relocations*

66. Moreover, the Highway 3 Bypass will minimize the local distribution company relocations based on the currently-approved route. For example, if the Highway 3 Bypass is approved, there will not be a need to re-locate and bury several single-phase distribution lines.

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<sup>15</sup> See Niagara Region Wind Corporation Interrogatory Responses in EB-2013-0203 filed February 28, 2014, pgs. 61-109.

### Other approvals for Highway 3 Bypass obtained

67. The Project has obtained a REA amendment from the MOECC in relation to the Highway 3 Bypass, and this amendment was not appealed to the Environmental Review Tribunal. The REA approval involved review of several government ministries, and therefore like the Smithville Bypass, the Highway 3 Bypass has been reviewed and vetted by various public agencies.<sup>16</sup> All of these government ministries found that the proposed change to the route was acceptable in relation to their sphere of jurisdiction. See Schedule “O” for copies of confirmation letters issued by the various public authorities further to the REA process,<sup>17</sup> and Schedule “P” for a copy of the approval of the REA amendment by the MOECC regarding the Highway 3 Bypass.

### Codes and standards to be complied with

68. All electrical equipment and systems for the Highway 3 Bypass will be designed, supplied and installed in accordance with the latest editions of relevant codes and standards, including the Ontario Electrical Safety Code issued by the Electrical Safety Authority.

### ***No effect on System Impact Assessment and Customer Impact Assessment as a result of the Smithville Bypass and Highway 3 Bypass***

69. The Highway 3 Bypass is approximately 335 meters long, and results in a reduction in transmission line length of 308 meters. The Smithville Bypass is approximately 2.4 km long, and results in a transmission line length reduction of 183 meters. This results in

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<sup>16</sup> These agencies include the Ministry of Natural Resources, the Ministry of Tourism, Culture and Sport for both archeological studies and heritage assessment, and, of course, the MOECC.

Moreover, the REA amendment process required extensive consultation with local residents. More specifically, as detailed in the Community and Stakeholder Notification Plan attached hereto at Schedule “M”, the Notice of a Proposed Change to a Renewable Energy Project (the “Highway 3 Notice”), which notice is attached at Schedule “N” and which notice shows the proposed change to the transmission line route, was distributed to agencies, municipalities, Aboriginal communities and community members that are on the Project’s distribution list.

In addition, the Notice was published in ten local newspapers on two dates, as set out on page 3 of the Community and Stakeholder Notification Summary at Schedule “M”.

<sup>17</sup> The Niagara Region Wind Farm Renewable Energy Approval Amendment Modification Report for the Highway 3 Bypass (as well as for Meteorological tower changes which are not related to the transmission line) (part 1, 57 MB) (part 2, 18 MB) is available at [http://www.nrwf.ca/wp-content/uploads/2016/01/rpt\\_50269\\_nrwf\\_rea\\_mod-rpt3\\_April2016\\_PART-1.pdf](http://www.nrwf.ca/wp-content/uploads/2016/01/rpt_50269_nrwf_rea_mod-rpt3_April2016_PART-1.pdf) (part 1) and [http://www.nrwf.ca/wp-content/uploads/2016/01/rpt\\_50269\\_nrwf\\_rea\\_mod-rpt3\\_April2016\\_part2.pdf](http://www.nrwf.ca/wp-content/uploads/2016/01/rpt_50269_nrwf_rea_mod-rpt3_April2016_part2.pdf) (part 2). The page references within the REA Modification Report for the confirmation letters issued by public authorities (attached on their own at Schedule “O”) are below:

Document	Date	Section/Page Reference
MNRF Confirmation email	April 29, 2016	part 1, Appendix B, PDF page 111-112
MTCS Confirmation - Heritage	April 5, 2016	part 1, Appendix C, PDF page 142-143
MTCS Confirmation - Heritage	January 5, 2016	part 1, Appendix C, PDF page 150-151
MTCS Confirmation - Archaeology	March 16, 2016	part 1, Appendix C, PDF page 161-162



a total transmission line length reduction of 491 meters, which is 1.1% reduction in length of the 44 km transmission line.

70. Further to the Board's Decision and Order of June 2, 2016, the Applicants have inquired with the IESO and Hydro One to confirm that the System Impact Assessment and the Customer Impact Assessment will not change as a result of the transmission line length being shorter by approximately 500 meters total.

*System Impact Assessment will not be affected*

71. The Applicants inquired with the IESO as to whether a 400-700 meter reduction in transmission line length would have an impact on the SIA. The IESO has confirmed that there is no implication or change to the SIA as a result of the shorter length.<sup>18</sup>

*Customer Impact Assessment will not be affected*

72. Hydro One has not yet replied to the Applicant's email regarding this question, but the Applicants will provide Hydro One's response as soon as it is available.

**Part IV – Request to proceed without a hearing and request for an expedited proceeding**

*Request to proceed without a hearing*

*Smithville Bypass*

73. In regards to the Smithville Bypass, the Applicants submit that no one will be adversely affected in a material way by the Board's decision regarding this application.
74. With respect to adverse impact, there are no landowners (aside from the landowner who has entered into a land use agreement in the form approved by the Board with FWRN LP) who are directly affected by this application. The Board's Letter of Direction in the original leave to construct application defined directly affected landowners as those persons with an interest in land "that is required on either a temporary or permanent basis for the construction and/or operation" of the transmission facilities.<sup>19</sup> Only directly affected landowners were required to receive notice of the leave to construct proceeding. The one landowner who is directly affected by the Smithville Bypass has been contacted and has agreed to host transmission infrastructure in accordance with the Board-approved form of agreement.
75. As for other persons, i.e., those who are not directly affected, the Applicants submit that current users of the unopened road allowance upon which a portion of the Smithville Bypass is proposed will not be adversely affected in a material way by the construction of the transmission line. Finally, the relocation of the Hydro One and CP crossings approximately 500 meters west will also not have a material adverse effect.

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<sup>18</sup> See Schedule "Q" for the email from the IESO confirming that the change will not impact the SIA.

<sup>19</sup> EBO-2013-0203, Letter of Direction, July 5, 2013.

76. Further, the community has received extensive notice of the Smithville Bypass. Through the REA amendment process, the Smithville Bypass has been publicized in the local community by way of publications in various local newspapers on two dates, and with a route map as shown as Schedule "L" and through municipal council minutes published on West Lincoln's website. Landowners along the route have also received tree-trimming notices. The REA amendment, once issued, could have been appealed to the ERT but it was not so appealed. The Applicants submit that these facts, available on the public record, support the Applicants' request that this application be determined without a hearing.

#### *Highway 3 Bypass*

77. In the case of the Highway 3 Bypass, the Applicants also submit that no one will be adversely affected in a material way by the Board's decision regarding this application.
78. As described above, the Highway 3 Bypass is being pursued due to the request of the MTO. The private land rights needed for the Highway 3 Bypass have been secured, and there are no utility crossings along the proposed bypass route.

#### *No one will be adversely affected in a material way by the Smithville Bypass or Highway 3 Bypass*

79. Consequently and in regards to both the Smithville Bypass and the Highway 3 Bypass, as no one will be adversely affected in a material way by the outcome of this application, the Applicants request that the Board exercise its authority under s. 21(4)(b) of the OEB Act to dispose of this application without a hearing.

#### *Determination of application on expedited basis*

80. In addition, the Applicants request that the Board determine this application on an expedited basis pursuant to sections 2.01 and 7.01 of the Board's *Rules of Practice and Procedure*. The project is currently approximately 85% completed and the Transmission Facilities almost 82% built, and the Project must adhere to timelines under FWRN LP's FIT contract with the IESO.
81. If there is a hearing, the delay and uncertainty will result in challenges to the commercial viability of the project and, combined with the necessity of meeting FIT contract timelines, the Project will have to proceed as per the original Leave to Construct which, as this application demonstrates, is less aligned with the public interest than the proposed amendments.

#### **Part V – The Smithville Bypass and the Highway 3 Bypass are in the public interest**

82. In Part IV above, the Applicants set out how no one will be adversely affected in a material way by the Smithville Bypass or the Highway 3 Bypass. However, should the Board not approve the Smithville Bypass or Highway 3 Bypass, there will be a clear adverse affect on the Municipality of West Lincoln and on the MTO, whose interests the Applicants have worked hard to accommodate.

83. The reality is that at the time that a leave to construct is approved, there is still work to be done on a renewable project. This is why Ontario's REA Regulation sets out a process for REA amendments. In other words, the Ontario government, through the REA Regulation, has recognized that changes often need to be made to a project after the REA is issued. Moreover, it is consistent with the policies of the Government of Ontario to seek to accommodate local communities and municipalities. Therefore, this application, pursuant to section 96(2) of the OEB Act, renders the Project even more consistent with the policies of the Government of Ontario and the promotion of the use of renewable energy sources.
84. Also and importantly, the OEB's own filing guidelines in regards to leave to construct clearly provide that when a proponent obtains approvals after the LTC process, changes to the LTC may be required, including a change in route (see s. 4.2.2).
85. As noted above, the Board found in the July 3, 2014 LTC Order that the construction of the Transmission Facilities was in the public interest. As has been explained herein, the Applicants have now worked to make the construction of the transmission facilities even more aligned with the public interest by undertaking all the necessary studies and obtaining all approvals, aside from OEB approval, to change the original transmission line route in two places for the sole purpose of accommodating the local community and the MTO.
86. Moreover, the Project has developed a new partnership since the LTC Order which renders the Project itself, in the submission of the Applicants, even more in the public interest. Specifically, the Project has now executed a term sheet with Six Nations of the Grand River for Six Nations to be a partner in the Project.<sup>20</sup>
87. In conclusion and for all the reasons described herein, the Applicants submit that it is in the public interest for the Board to approve the Smithville Bypass and the Highway 3 Bypass without a hearing pursuant to section 21(4)(b) of the OEB Act, and within an expedited timeline pursuant to sections 2.01 and 7.01 of the Board's *Rules of Practice and Procedure*.

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<sup>20</sup> See <http://www.snfuture.com/project.php?id=12> and term sheet available at <http://www.snfuture.com/ius/resources/32-Six%20Nations%20NRWC%20Term%20Sheet%20executed.pdf>. See also Six Nations website, PowerPoint presentation (slide 80): [http://www.sixnations.ca/AGM2015\\_Presentation4SlidesPerPage.pdf](http://www.sixnations.ca/AGM2015_Presentation4SlidesPerPage.pdf)

### **Table of Schedules**

West Lincoln Road Use Agreement with initial modified route agreed upon by West Lincoln and NRWC at last page	Schedule "A"
Initial modified route showing disputed portion of unopened road allowance	Schedule "B"
Map showing alternate modified route	Schedule "C"
Correspondence to the Applicants from the MTO re poles on Highway 3	Schedule "D"
Map showing original OEB-approved route as well as Smithville Bypass	Schedule "E"
Plan of underground crossing – Smithville Bypass	Schedule "F"
Map showing original OEB-approved route as well as Highway 3 Bypass	Schedule "G"
CP approval	Schedule "H"
Copies of confirmation letters issued by the various public authorities further to the REA process for Smithville Bypass	Schedule "I"
Copy of approval of REA amendment by MOECC regarding Smithville Bypass	Schedule "J"
Community and Stakeholder Notification Summary – Smithville Bypass	Schedule "K"
Notice of a Proposed Change to a Renewable Energy Project – Smithville Bypass	Schedule "L"
Community and Stakeholder Notification Plan – Highway 3 Bypass	Schedule "M"
Notice of a Proposed Change to a Renewable Energy Project – Highway 3 Bypass	Schedule "N"
Copies of confirmation letters issued by the various public authorities further to the REA process for Highway 3 Bypass	Schedule "O"
Copy of approval of REA amendment by MOECC regarding Highway 3 Bypass (as well as meteorological towers, which are not part of the Transmission Facilities)	Schedule "P"
Email from IESO confirming that change will not impact SIA	Schedule "Q"

**SCHEDULE "A"**

**(Please see attached)**

**THIS ROAD USE AGREEMENT** (the "Agreement") made as of this 9<sup>th</sup> day of October, 2014  
("Effective Date")

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN  
hereinafter referred to as the "Township"

OF THE FIRST PART

- AND -

NIAGARA REGION WIND CORPORATION  
hereinafter referred to as the "Proponent"

OF THE SECOND PART

WHEREAS the Proponent is developing an approximately 230 megawatt commercial wind energy project known as the Niagara Region Wind Project (the "Wind Project") partly located in the Township pursuant to a Power Purchase Agreement dated February 25, 2011 (the "Power Purchase Agreement"), between the Ontario Power Authority and the Proponent;

AND WHEREAS the Proponent wishes to make use of certain Road Allowances, as hereinafter defined, to make deliveries of materials and components to, and to allow for the construction, operation, repair, and maintenance of the Wind Project;

AND WHEREAS the Proponent may wish to temporarily reconstruct or realign certain portions of municipal Road Allowances to permit delivery and/or movement of oversized Wind Project components, including but not limited to wind turbine blades, tower sections, nacelles and transmission and distribution related materials;

AND WHEREAS the Proponent also wishes to install, repair, maintain and operate Electrical Infrastructure, as hereinafter defined within or under certain Road Allowances, pursuant to its statutory rights under the *Electricity Act, 1998*;

AND WHEREAS the Proponent, when exercising its power of entry, has an obligation under the *Electricity Act, 1998* to, in so far as is practicable, restore the Road Allowance to its original condition and provide compensation for any damages caused by the entry;

AND WHEREAS the Proponent also wishes to connect access roads from Wind Project turbines to the Road Allowances to permit ongoing access to and from turbines during Wind Project operations;

NOW THEREFORE IN CONSIDERATION of the undertakings and agreements hereinafter expressed by the Parties, the Township and the Proponent mutually covenant and agree as follows:

1. Interpretation

1.1. In this Agreement:

- (a) "Abandon" shall have the meaning set out in Section 11.1 and "Abandonment" shall have the corresponding meaning;
- (b) "Annual Payment" has the meaning set out in Section 2.3;



- (c) “Applicable Law” means all present or future applicable laws, statutes, regulations, treaties, judgements and decrees and all present or future applicable published directives, rules, policy statements and orders of any Public Authority and all applicable orders and decrees of courts and arbitrators to the extent, in each case, that the same are legally binding on a Party in the context of this Agreement;
- (d) “Commercial Operation Date” means the Commercial Operation Date as defined in the Power Purchase Agreement;
- (e) “Decommissioning Security” has the meaning set out in Section 11.5;
- (f) “Deliveries” is defined as the transport of materials, components and equipment, including overweight or over-size cargoes, across or along Road Allowances to provide for the construction, maintenance, repair, replacement, relocation or removal of wind turbines, material, components and equipment for the Wind Project and specifically for the Electrical Infrastructure;
- (g) “Effective Date” is defined at the top of page 1 herein;
- (h) “Electrical Infrastructure” means infrastructure for the transmission and distribution of electricity shown in the preliminary drawings attached as **Schedule “A”**, including (i) a line or lines of towers or poles and wires, cables or ducts for the transmission or distribution of electrical energy; and (ii) all foundations, footings, cross arms, and other appliances, facilities and fixtures for use in connection therewith including without limitation, vaults and junction boxes (whether above or below ground), manholes, handholes, conduit, fibre optics, cables, wires, lines and other conductors of any nature, multiple above or below ground control, communications, data and radio relay systems and telecommunications equipment including without limitation, conduit, fibre optics, cables, wires and lines;
- (i) “Electrical Work” is defined as installing, constructing, operating, inspecting, maintaining, altering, enlarging, repairing, replacing, relocating or removing Electrical Infrastructure over, along, across, within and/or under the Road Allowances in connection with the Wind Project;
- (j) “Emergency” shall mean a sudden unexpected occasion or combination of events necessitating immediate action to prevent or mitigate materially adverse consequences to the health and safety of individuals or the integrity and safety of Utilities and infrastructure;
- (k) “Entrance Work” is defined as constructing and maintaining Entrances to private Wind Project related access roads;
- (l) “Entrances” means points of access across and through the Road Allowances to be constructed by the Proponent, as applicable, from the travelled portion of the Road Allowances connecting to certain access roads in and upon adjacent lands that lead to Wind Project infrastructure;
- (m) “Haul Routes” means the portions of the Road Allowances to be used by the Proponent for overweight or over-size Deliveries in connection with the Wind Project and the Work.
- (n) “Installation Security” has the meaning set out in Section 3.5;

- (o) "Installation Work" means Road Work and other work involving or incidental to the installation, construction, enlargement, relocation or removal of Electrical Infrastructure and Entrances;
- (p) "Municipal Engineering Standards" means Section 3.14 Completion and Provincial Maintenance Works of the Township of West Lincoln's Municipal Engineering Standards;
- (q) "Permits" means, collectively, the permits within the Township's jurisdiction that are required in connection with the Work, as listed on **Schedule "C"**;
- (r) "Plans" is defined as detailed plans that identify the location, size, elevation and scope of the Installation Work within the Road Allowance and demonstrate that the Installation Work will comply with applicable safety, technical and regulatory standards and the requirements of Applicable Law;
- (s) "Public Authority" means any governmental, federal, provincial, regional, municipal or local body having authority over the Township, the Proponent, the Wind Project, the Electrical Infrastructure or the Road Allowances;
- (t) "Repair Work" means work involving the maintenance, repair or replacement of installed Electrical Infrastructure and Entrances that does not cause the location, elevation, position, layout or route of the Electrical Infrastructure or Entrance to materially change;
- (u) "Road Allowances" means the public rights of way, highways, streets, sidewalks, walkways, driveways, ditches and boulevards and the allowances therefor, including those shown on the map attached as **Schedule "B"** hereto, and including the Entrances that are owned by or managed under the legal jurisdiction of the Township, and "Road Allowance" means one of the Road Allowances, as applicable in the context of this Agreement;
- (v) "Road Repair Work" means three categories of road repair work: (i) Emergency road repair work; (ii) repair work related to Ontario Regulation 239/02 *Minimum Maintenance Standards for Municipal Highways*; and (iii) general repair work;
- (w) "Road Work" is defined as temporarily reconstructing or re-aligning road sections, turns and intersections on the Road Allowances to permit the passage of overweight or over-size cargoes;
- (x) "Secured Party" or "Secured Parties" is defined as a party or parties which, from time to time, provides financing to the Proponent in respect of the development, construction or operation of the Wind Project or the Work, as determined by the Proponent in its sole discretion;
- (y) "Traffic Effects" is defined as temporary modification of traffic patterns or the imposition of temporary restrictions on public access to or use of the Road Allowances;
- (z) "Tree Work" is defined as cutting, trimming or removing trees or bushes growing in the Road Allowances;
- (aa) "Utility" means any water works, gas works, electric heat, light or power works,



telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessities or conveniences; and

(bb) "Work" means, collectively, Deliveries, Road Work, Entrance Work, Installation Work, Tree Work, Repair Work and Electrical Work as defined herein.

1.2. The following schedules are attached to this Agreement and form an integral part of this Agreement:

**Schedule "A"** — Drawings of Electrical Infrastructure & Haul Routes

**Schedule "A-1"** — Proposed Location of Distribution Lines

**Schedule "B"** — Plan showing Road Allowances expected to be required for the Electrical Infrastructure & Haul Routes

**Schedule "C"** — Schedule of Permit Fees

**Schedule "D"** — Emergency Response and Communication Plan [(To follow once finalized)]

**Schedule "E"** — Decommissioning Plan [(To follow once finalized)]

**Schedule F** — Drawing of Proposed Relocated Portion of the Above Ground Transmission Line

1.3. The Proponent acknowledges that the Township represents and warrants that it has the requisite authority and jurisdiction to enter into this Agreement. The Proponent and its successors and assigns shall at no time contest the validity of this Agreement on the ground that the Township lacked the authority or jurisdiction to enter into this Agreement.

1.4. Nothing contained in this Agreement shall abrogate or prejudice any rights held by either Party under Applicable Law including but not limited to the *Ontario Energy Board Act, 1998*, the *Municipal Act, 2001*, the *Highway Traffic Act*, the *Green Energy Act, 2009* and the *Electricity Act, 1998*, as amended.

## 2. Grant of Right of Entry and Use

2.1. The Township hereby grants and transfers to the Proponent the non-exclusive right and licence to enter upon and use the Road Allowances with such persons, vehicles, equipment and machinery as may be necessary for purposes of:

(a) Deliveries and Road Work;

(b) Entrance Work, provided that the Proponent first acquires at its own expense any property rights to private lands required for the Entrance Work, and use of such Entrances;

(c) Electrical Work;

(d) Installation Work and Repair Work;

(e) Tree Work.

- 2.2. This Agreement shall become effective as of the Effective Date and, unless earlier terminated, shall remain in effect until the earlier of (i) the date which is three (3) years following the Effective Date if the Ministry of the Environment has not issued a Renewable Energy Approval for the Wind Project (except, for greater certainty, for reasons that are outside the reasonable control of the Proponent); (ii) the date upon which the Wind Project has been fully decommissioned and all necessary reclamation and restoration has been completed; and (iii) the date which is twenty five (25) years following the Effective Date. Provided that the Proponent is not then in material default of any of its covenants and obligations pursuant to this Agreement and further provided that the Wind Project or a project utilizing all or substantially all of the assets or properties comprising the Wind Project continues in operation, the Proponent shall be entitled to extend the term of this Agreement for a further period of twenty (20) years commencing on the original date of expiry of the term as provided in Section 2.2(iii), provided that the Proponent shall provide to the Township not less than ninety (90) days' written notice of its intention to so extend prior to such expiry. The renewal term will be on the same terms, covenants and conditions as are set forth in this Agreement, subject to Applicable Law and excluding any further rights of extension and the Annual Payment. The Annual Payment that is applicable during the renewal term will be negotiated and mutually agreed upon by the Parties, acting reasonably, at least sixty (60) days before the commencement of the renewal term, failing which either party may submit the dispute to be determined by arbitration pursuant to the dispute resolution procedure set out in Section 14. The Proponent will continue to make the Annual Payment at the rate set out in Section 2.3 until the resolution of the Dispute.
- 2.3. In consideration for the grant set out in Section 2.1 above, the Proponent agrees to pay to the Township \$5,000.00 per kilometer of above ground transmission line (of 115 kV or greater) installed in Road Allowances that are owned or managed under the legal jurisdiction of the Township, for each calendar year of the term commencing on the Commercial Operation Date and ending on the expiry or earlier termination of this Agreement (the "Annual Payment"). As of the Effective Date, it is expected that approximately 17.6 kilometers of above ground transmission line will be installed within such Road Allowances; however, for the purpose of the calculation of the Annual Payment under this Section 2.3, the actual installed kilometers of above ground transmission line will be confirmed by detailed design drawings. The Annual Payment shall be adjusted for each calendar year by 20% of the consumer price index for "All Items" published or established by Statistics Canada (or its successor) for any relevant calendar month in relation to the Province of Ontario.
- 2.4. The Annual Payment will be made within 60 days of the Commercial Operation Date and on each anniversary thereof. The Annual Payment for the first year (which for greater certainty, commences on the Commercial Operation Date) and the final year of payment will be prorated using the percentage that the number of days in the first or the final year of the term, as applicable, is to 365 days.
- 2.5. Subject to Section 6.8 of this Agreement, the Township reserves its right to enter upon and use the Road Allowances for its own municipal purposes and to grant and transfer rights to third parties to enter upon and use the Road Allowances to construct, operate, maintain, alter, repair or relocate infrastructure, and to modify the Road Allowances, provided that such entry, use, grant or transfer will not adversely affect the Work or the exercise of the Proponent's rights under this Agreement. Except in the event of an



Emergency, the Township shall be required to give prior notice to the Proponent of the exercise of the foregoing rights and, in the event it intends to exercise its foregoing right to construct, operate, alter, repair or relocate infrastructure, or modify the Road Allowances, such notice shall be given to the Proponent at least 96 hours prior to the exercise of such rights. In the event of an Emergency, no prior notice will be required of the Township prior to the exercise of the foregoing rights, and upon notice to the Township, the Proponent will have the right, but not the obligation, to do anything that is necessary or desirable to control the Emergency and to preserve the Work or Electrical Infrastructure or the Road Allowances, as the case may be.

- 2.6. The Township agrees that the fees to be charged to the Proponent for any Permits and approvals to be issued by the Township in connection with the Work are set forth in **Schedule "C"** to this Agreement and the Township warrants that such fees do not exceed the usual and customary fees that are generally applicable to the public. The Township further agrees to process, review and render decisions on the Proponent's complete permit applications, including in respect of the Permits, in an expeditious manner and in no case later than the applicable time frame outlined in the Township's ordinances. The commitment by the Township to expedite the processing of complete permit applications made by the Proponent as referenced above shall not be interpreted as implying any obligation on the part of the Township to approve such applications. All permit applications made by the Proponent shall be considered by Council or the appropriate administrative officer on their merits at the time the applications or submissions are made.
- 2.7. The Township and the Proponent both acknowledge that the Township cannot enter into any agreement that has the effect of expressly or impliedly fettering the legislative discretion of the current or a future Council and this Agreement shall not have the effect of fettering the jurisdiction of Council under any *Act*.
- 2.8. The Township represents and warrants that:
- (a) it has legal and beneficial title to the Road Allowances and full power and authority to grant the rights over the Road Allowances in the manner set out in this Agreement;
  - (b) the execution and delivery of this Agreement by the Township will not result in a material breach of any other agreement to which the Township is a party and no rights, interests or privileges have been granted in respect of the Road Allowances by the Township which will or could adversely affect the rights, interests or privileges granted to the Proponent hereunder;
  - (c) it has obtained the full and unconditional due authorization for the execution and delivery of this Agreement by all required resolutions and other required municipal approvals;
  - (d) it shall defend its title to the Road Allowances against any person or entity claiming any interest adverse to the Township in the Road Allowances during the term of this Agreement, save and except where such adverse interest arises as a result of the act, omission, negligence or wilful misconduct of the Proponent or those for whom it is in law responsible; and
  - (e) subject to any additional permits that may be required for the Township to comply



with legislative requirements enacted after the date hereof, the Permits are the only permits, approvals, consents, or authority within the jurisdiction of the Township required in connection with the Work and the fees set forth in **Schedule "C"** attached hereto are the only fees payable by the Proponent in connection with the Permits.

- 2.9. The Township agrees, in the event it decides to permanently close or dispose of any Road Allowance which may affect the interests of the Proponent, or any part of a Road Allowance, to give the Proponent reasonable advance written notice of such proposed closing or disposal and to grant and transfer to the Proponent, at no cost to the Proponent and prior to the proposed closure or disposal of the applicable Road Allowance, grant easements and rights-of-way, in registrable form and in priority to any encumbrances adversely affecting the rights and interests of the Proponent hereunder, over that part of the Road Allowance closed or disposed of, sufficient to allow the Proponent to preserve any part of the Electrical Infrastructure in its then existing location, to enter upon such closed or disposed of Road Allowance to perform Work (including, without limitation, Deliveries) and to gain access to the Wind Project infrastructure on the terms and conditions set out in this Agreement and in accordance with Applicable Law.
- 2.10. In the event that the Township decides to dispose of any Road Allowance or part thereof which may affect the interests of the Proponent, the Township agrees to require the transferee or assignee of such Road Allowance, as a condition precedent to the transfer or assignment, to agree in writing with the Proponent, in a form acceptable to the Proponent acting reasonably, to be bound by the terms of this Agreement and to assume the Township's obligations hereunder from and after the date of the transfer or assignment in accordance with Applicable Law.
- 2.11. The Parties agree that the Electrical Infrastructure is owned by the Proponent and the Township has no interest in it.

3. Conditions Precedent to Commencement of Work

- 3.1. Prior to the commencement of any Work, the Proponent shall arrange for and maintain commercial general liability insurance satisfactory to the Township, acting reasonably, for the joint benefit of the Proponent and the Township as an additional insured. The Proponent will indemnify and hold harmless the Township from and against all claims, liabilities, losses, costs, damages or other expenses of every kind that the Township may incur or suffer as a consequence of personal injury, including death, and property damages arising out of the negligent performance of the Work or the willful misconduct of Proponent or those for whom it is in law responsible. The commercial general liability insurance shall provide, at a minimum, limits of liability not less than Five Million Dollars (\$5,000,000.00) per occurrence and in the aggregate at the commencement of the term hereof. This policy will contain a cross liability and severability of interest clause and provide for a minimum of thirty (30) days' notice of alteration or cancellation of said policy. The Proponent shall provide the Township with a Certificate of Insurance from a company licensed to carry on business in Ontario, evidencing the required insurance, prior to the commencement of Work.
- 3.2. From time to time, upon reasonable request by the Township, the Proponent shall provide proof that the premiums of the insurance policy referred to in Section 3.1 have been paid

and that such insurance is in full force and effect. The Proponent shall notify the Township if it is unable to pay insurance premiums or if the Proponent's insurance is cancelled or going to be cancelled for any reason. The Township may, but is not obliged to, pay the Proponent's insurance premium in the event the Proponent is unable to do so.

- 3.3. Prior to the commencement of any Work, the Proponent shall prepare a pre-construction survey, including a video recording or another means satisfactory to the Township acting reasonably, the then-existing condition of all Road Allowances and structures that the Proponent expects will or may be used for or subject to such Work, and both Parties shall receive a complete copy of such document. The work described in this paragraph shall be conducted by a licensed engineer at the expense of the Proponent.
- 3.4. The Proponent shall prepare post-construction condition surveys, conducted in substantially the same manner as outlined in Section 3.3 and provide a complete copy to the Township:
- (a) immediately following the Commercial Operation Date; and
  - (b) at a date no earlier than twelve (12) months following the Commercial Operation Date in respect of any portion of the Work that constitutes a secondary service pursuant to Municipal Engineering Standards; and
  - (c) at a date no earlier than twenty four (24) months following the Commercial Operation Date in respect of any portion of the Work that constitutes a primary service pursuant to Municipal Engineering Standards.

The work described in this paragraph shall be conducted by a licensed engineer at the expense of the Proponent. For greater certainty, the Parties acknowledge that, as of the date of this Agreement, the Township considers surface treatment (tar and chip pavement) on roads to constitute a primary service under the Municipal Engineering Standards.

- 3.5. Prior to the commencement of any Work, the Proponent shall provide security in favour of the Township in the amount of One Million Dollars (\$1,000,000) to guarantee the Proponent's performance of its obligations under Sections 4.4 and 4.5 (the "Installation Security"). The Parties agree that the Installation Security shall be in the form of a letter of credit issued by a Canadian chartered bank or other security acceptable to the Township acting reasonably. The Township shall have thirty (30) business days after the delivery of the post condition survey referenced in Section 3.4(a) to verify the Work has been completed to the satisfaction of the Township; the amount of the Installation Security shall be reduced from \$1,000,000 to \$250,000 within thirty (30) business days thereafter. The Township shall have thirty (30) business days after the delivery of the post condition survey referenced in Section 3.4(b) to verify the Work remains acceptable to the Township and any undrawn Installation Security shall be released or refunded to the Proponent within thirty (30) business days thereafter.
- 3.6. The Township shall have the right to draw upon the Installation Security for the purpose of making repairs to the Road Allowances if the Proponent has failed to meet its obligations in Sections 4.4 and 4.5 of this Agreement. If as a result of the Township drawing upon the Installation Security, the remaining Installation Security is less than the amount required by Section 3.5, the Proponent shall provide the Township with additional security within five (5) business days such that the total Installation Security provided is

equal to the amount required by Section 3.5.

- 3.7. Where it is deemed preferable to the Township that the repair work be incorporated into the costs of a larger restoration or reconstruction project, notice and written specifications of the extent and expected costs of such larger project shall be provided to the Proponent by the Township. The costs of the repair work shall be agreed upon by the Parties, each acting reasonably. The Parties agree that such cost will not exceed the reasonable expected cost of such work to the Proponent had the repair work not been incorporated into the larger restoration or reconstruction project. Upon written approval of such work and costs by the Proponent, the Proponent shall pay the agreed costs to the Township within thirty (30) days of such agreement, whereupon the Proponent shall have no further responsibility for such repair work and the Proponent shall be deemed to be released from its obligations under Sections 4.4 and 4.5 with respect to such repair work.

#### 4. Work Generally

- 4.1. Notwithstanding and without limiting any other term hereof, the Proponent agrees and undertakes that it will perform the Work at its own expense in accordance with and compliance with good engineering practices, any applicable Plans and reports, if any, approved by the Township, this Agreement and Applicable Law.
- 4.2. The Proponent shall not proceed with the Work before receiving approval, if required, to proceed with the Work from any other Public Authority or Utility, if any, having jurisdiction over the Work, if and to the extent that Applicable Law requires such approval prior to the commencement of the Work.
- 4.3. The Proponent shall use commercially reasonable efforts to undertake and complete all Work so as to avoid unnecessary adverse impacts on public use of the Road Allowances and on adjacent property owners. Notwithstanding and without limiting any other term hereof, the Parties acknowledge that the Work (including for greater certainty, the Deliveries), from time to time may require Traffic Effects. The Proponent agrees to:
- (a) give ten (10) days' notice of anticipated Traffic Effects to the Township and affected residents and to coordinate with the Township and local emergency services to minimize and mitigate any adverse impacts of the Traffic Effects and to ensure public safety; and
  - (b) use commercially reasonable efforts to maintain adequate public access to and use of the Road Allowances while Work is in progress and to remove the Traffic Effects as soon as reasonably possible following the completion of the Work.
- 4.4. The Proponent further agrees that where it has broken, removed or otherwise pierced the existing surface of any of the Road Allowances or any other municipal lands to undertake any Work, the Proponent shall in all cases repair, reinstate and restore the surface to the same or better condition than that which existed prior to the commencement of the Work, and in all cases to the satisfaction of the Township acting reasonably. Further thereto, the Proponent also agrees:
- (a) to the extent that such repair and restoration work constitutes a secondary service pursuant to Municipal Engineering Standards, it shall thereafter, for a period of twelve (12) months following the Commercial Operation Date, monitor that portion of such restored Road Allowances, at the sole expense of the Proponent, and repair any



damage resulting from the settling thereof caused by the Work, to the satisfaction of the Township, acting reasonably, and excepting reasonable wear and tear; and

- (b) to the extent that such repair and restoration work constitutes a primary service pursuant to Municipal Engineering Standards, it shall thereafter for a period of twenty four (24) months following the Commercial Operation Date, monitor that portion of such restored Road Allowances, at the sole expense of the Proponent, and repair any damage resulting from the settling thereof caused by the Work, to the satisfaction of the Township, acting reasonably, and excepting reasonable wear and tear.
- 4.5. The Proponent shall be responsible for the repair, to the satisfaction of the Township acting reasonably, of any damage to the travelled portion of Road Allowances caused by the Proponent's use in connection with the development and construction of the Project, reasonable wear and tear excepted. No later than thirty (30) days following the Commercial Operation Date, the Township will compare the condition of the travelled portion of the Road Allowances to the condition of the Road Allowance as at the commencement of the Work (as documented in accordance with Section 3.3), and will inform the Proponent whether the Township, acting reasonably, considers any Road Repair Work is required. Any repairs undertaken shall restore the road surface to the same or better condition than that which existed immediately prior to the Proponent's use of the Road Allowances as provided in this Agreement, to the satisfaction of the Township acting reasonably. Upon being notified by the Township of the need for such repairs in accordance with this Section 4.5, the Proponent shall, provided that the weather and weather-related conditions permit, complete these repairs within the following timeframe following receipt of such notice: (i) immediately, in the case of Road Repair Work described in (i) of Section 1.1(v), (ii) within the applicable time periods established by Ontario Regulation 239/02 *Minimum Maintenance Standards for Municipal Highways* in the case of Road Repair Work described in (ii) of Section 1.1(v); or (iii) within thirty (30) days in the case of Road Repair Work described in (iii) of Section 1.1(v).
- 4.6. The Proponent shall be deemed to be released of all of its obligations pursuant to Section 4.4 and Section 4.5 on the date which is (i) twelve (12) months following the Commercial Operation Date in respect of any Work (including repairs) that constitutes a secondary service pursuant to Municipal Engineering Standards; or (ii) twenty four (24) months following the Commercial Operation in respect of any Work (including repairs) that constitutes a primary service pursuant to Municipal Engineering Standards, in each case, save and except for any specific tasks or obligations of which the Township, acting reasonably, has provided specific written notice to the Proponent prior to such date.
- 4.7. The Proponent agrees to make commercially reasonable efforts to rely on the Township road maintenance staff to implement measures to mitigate the Traffic Effects pursuant to Section 4.2 of this Agreement and to repair, reinstate and restore the Road Allowances pursuant to Section 4.4 of this Agreement, and the Proponent agrees to reimburse the Township for the reasonable costs of any such work conducted by the Township staff, including the Township staff and supervisory time, materials and contracted services, provided that the Proponent, acting reasonably, shall have been notified in writing the quantum of any such costs prior to the performance of such work by the Township. For greater certainty, to the extent the Proponent disagrees with the quantum of such costs, it may submit the matter to arbitration pursuant to the dispute resolution procedure set out in Section 14.
- 4.8. The Proponent shall provide the Township with a copy of the Wind Project's Emergency Response and Communications Plan once it has been approved by the Ministry of the

Environment as part of the Proponent's Renewable Energy Approval application, and in any event, prior to the commencement of the Installation Work. The Parties agree to cooperate with each other and with local municipal emergency services and Hydro One Networks Inc. and Niagara Peninsula Energy (whichever is applicable) to develop and adopt an Emergency Response and Communications Plan applicable in the event of an Emergency involving the Electrical Infrastructure or the Work. After the Emergency Response and Communications Plan has been finalized, the Parties agree that the negotiated Emergency Response and Communications Plan will be attached as **Schedule "D"** hereto.

- 4.9. Notwithstanding any other provision of this Agreement, in the event of any Emergency involving the Work or Electrical Infrastructure, the Proponent shall notify the local municipal emergency services immediately upon becoming aware of the situation and shall do all that is necessary and desirable to control the Emergency, including such Work in and to the Electrical Infrastructure or the Road Allowances as may be required. The Proponent shall be responsible for any Work in respect of the Electrical Infrastructure associated with such Emergencies howsoever caused, without prejudice to its right to claim indemnity from the Township or from any third party for costs and expenses incurred in connection therewith by reason of the fault or negligence of the Township or any third party, as the case may be.
- 4.10. Notwithstanding the foregoing, the Proponent shall not be required to carry out and shall not be responsible for any costs associated with any maintenance, repairs or restoration of the Road Allowances other than as set out in this Agreement.

## 5. Installation Work

- 5.1. The Proponent shall meet, and use reasonable efforts to consult, with the Township throughout the planning process for the Installation Work.
- 5.2. Prior to the commencement of the Installation Work, the Proponent shall file detailed Plans and reports, if any, with the Township not less than sixty (60) days prior to commencement of such Installation Work.
- 5.3. The Township, acting reasonably and with diligence, shall review the complete Plans not later than forty-five (45) days of receipt of the complete Plans from the Proponent and either approve the Plans or, subject only to good engineering practice and Applicable Law, advise the Proponent in writing of any modifications or amendments to the Plans that the Township may seek and the reasons therefore. During its review of the Plans the Township shall be entitled to take into consideration any specific municipal or engineering interests affected by the Plans. The Township shall exercise commercially reasonable efforts to review the Plans in an expedited manner and shall not unreasonably withhold or delay such approval. Without limiting the generality of the foregoing, if the Township advises the Proponent that it seeks modifications or amendments to the Plans as aforesaid, the Township agrees to promptly meet with the Proponent, and use best efforts and act in good faith, to identify and approve amended or modified Plans that are mutually acceptable, feasible and commercially reasonable as soon as reasonably possible thereafter.
- 5.4. The Proponent shall not proceed with the Installation Work before receiving:
  - (a) written approval of the Plans from the Township, which approval shall not be unreasonably delayed, conditioned or withheld;





- (b) approval to proceed with the Installation Work from any other Public Authority and Utility having jurisdiction over the Installation Work, to the extent that Applicable Law requires such approval prior to the commencement of Installation Work; and
  - (c) the Permits relating to such Installation Work, including providing the Township with the Installation Security.
- 5.5. Prior to commencing Installation Work, the Proponent shall prepare a Traffic Control / Construction Management Plan for completion of the Installation Work (including, without limitation, Deliveries) that includes commercially reasonable efforts to avoid unnecessary adverse impacts on public use of the Road Allowances and on adjacent property owners. The Proponent shall provide a copy of the construction staging plan to the Township.
- 5.6. Prior to commencing Installation Work, the Proponent shall notify any other person, entity or body operating, to the knowledge of the Proponent, any equipment, installations, Utilities or other facilities within the Road Allowances or in the immediate vicinity of the Road Allowances where Installation Work is to be conducted, of the details of the anticipated Installation Work, and consult with such other party so as to minimize the potential interference with or damage to such existing equipment, installations, Utilities, and other facilities by the said Installation Work and so as to maintain the integrity and security thereof.
- 5.7. The Proponent shall commence, perform and complete the Installation Work in accordance with the Plans for such Installation Work approved by the Township in all material respects.
- 5.8. In the event that physical features of the Road Allowances or other obstacles or circumstances frustrate the ability of the Proponent to complete the Installation Work in compliance in all material respects with the Plans approved by the Township, or render compliance in all material respects with the Plans commercially unreasonable, the Proponent agrees to revise the relevant Plans and submit such revised Plans for review and approval by the Township in accordance with this Section 5. The Township agrees to expedite the review of such revised Plans and shall not unreasonably condition or withhold its approval of such revised Plans. The Parties shall negotiate appropriate amendments to any provisions of this Agreement that are necessary as a consequence of the revised Plans.
- 5.9. The Proponent shall retain a qualified consulting engineering firm licensed in Ontario, to carry out field inspection and geotechnical testing of the construction works related to the Road Allowance if and to the extent required by normal engineering practices. The number and/or frequency of any inspections relating to the geotechnical testing will be in accordance with normal engineering practices. The Proponent shall provide the results of all field inspections and geotechnical testing to the Township.
- 5.10. The Proponent agrees to deposit as-built drawings and plans with the Township within ninety (90) days after the Commercial Operation Date showing the location and specifications of any Electrical Infrastructure installed over, along, across, under or within the Road Allowances and the location and specifications of any Entrances constructed pursuant to this Agreement.

6. Electrical Work



6.1.

- (a) The Proponent is currently planning to install Electrical Infrastructure within the Road Allowances identified in **Schedule "A"** and the Township agrees that such Road Allowances shall be available for Electrical Infrastructure, subject to the Township's approval of specific Plans as provided in Section 5. The Parties acknowledge and agree that the Proponent, when undertaking Electrical Work, shall ensure that the distribution portion of Electrical Work as shown in **Schedule "A-1"** is installed or constructed below grade only within a Road Allowance. The only exception shall be where the Proponent, in consultation with the Township, identifies environmental, topographical or other features, obstacles or circumstances that, in the reasonable opinion of the Township, having regard to the cost and technical feasibility of above ground distribution lines compared to below grade distribution lines, requires the installation of poles or other above grade electrical infrastructure to permit the distribution of electricity. Any plans submitted by the Proponent in connection with Electrical Work shall identify the location in which the Proponent identifies a potential obstacle to below grade distribution lines and shall set out the reasons therefore. With respect to the transmission portion of Electrical Work, the transmission lines are being constructed in accordance with the Ontario Energy Board's Decision and Order (EB-2013-0203) as may be amended (including pursuant to 6.1(b)).
- (b) The Parties acknowledge that the Proponent has made certain applications and received certain approvals in respect of the Work from various Public Authorities on the basis of the plans and specifications for Electrical Infrastructure as set out in **Schedule "A"**. Following receipt by the Proponent of a Renewable Energy Approval for the Project from the Ministry of Environment, the Proponent agrees to prepare and submit, and actively pursue in good faith, (i) an application to the Ministry of Environment to amend the issued Renewable Energy Approval; and (ii) an application to the Ontario Energy Board to amend the Ontario Energy Board's Decision and Order (EB-2013-0203) dated July 3, 2014 granting leave to construct transmission facilities to the Proponent, in each case which application will be to relocate a portion of the above ground transmission line from the locations set out in **Schedule "A"** to the locations set out in **Schedule F** (as set out in greater detail in **Schedule F** hereto). For greater certainty and notwithstanding the foregoing, the Parties acknowledge that the Proponent shall be entitled to construct and install the above ground transmission line in the locations set out in **Schedule "A"** if the Proponent determines, acting reasonably, that it is necessary to proceed with the construction and installation in such locations to achieve construction deadlines for the Project.

6.2. The Proponent further agrees to make commercially reasonable efforts to install the Electrical Infrastructure:

- (a) in appropriate locations between the outer limit of the travelled portion of the relevant Road Allowance and the property line of the Road Allowance (excepting road crossings);
- (b) at appropriate depths and/or elevations within the relevant Road Allowance so as to avoid conflicts with other existing infrastructure; and



- (c) in consistent locations within the Road Allowances such that the number of road crossings is minimized.
- 6.3. The Proponent acknowledges and agrees that its rights under this Agreement to install Electrical Infrastructure over, along, across, within or under the Road Allowances are subject to the following rights:
- (a) the right of free use of the Road Allowances by all persons or parties otherwise entitled to such use;
  - (b) the rights of the owners of the properties adjoining any relevant Road Allowance to full access to and egress from their properties and adjacent rights-of-way, highways, streets or walkways and the consequential right of such persons or parties to construct crossings and approaches from their properties to any such right-of-way, highway, street, or walkway, subject to any necessary approvals from Public Authorities and Utilities; and
  - (c) the rights and privileges that the Township may have previously granted to any other person or party to such Road Allowance or lands.
- 6.4. The Proponent agrees at its sole expense to:
- (a) mark the location of Electrical Infrastructure installed by the Proponent within the Road Allowances with appropriate markings;
  - (b) participate in the "Ontario One Call" system to facilitate ongoing notice to the public of the location of the Electrical Infrastructure; and
  - (c) properly and accurately identify the location of any Electrical Infrastructure within the Township, including the depth or elevation of the relevant portion of the Electrical Infrastructure, if requested by the Township or its officials or authorized agents, or otherwise. Any such request shall, except in the case of an Emergency, be made in writing to the Proponent with advance notice of fourteen (14) business days prior to the Township or a third party commencing work that may conflict with the Electrical Infrastructure.
- 6.5. The Parties agree and acknowledge that the Proponent shall from time to time be entitled to relocate installed Electrical Infrastructure or Entrances on its own initiative by complying with the terms of this Agreement respecting Installation Work, including the requirement to provide Installation Security and provide the Township with detailed Plans, with the necessary modifications.
- 6.6. In the event that the Township, acting reasonably and after diligently investigating all other feasible alternatives, deems it necessary for the Township or the Township's agents or contractors to modify or change the location of any part of the installed Electrical Infrastructure or Entrances (the "Relocation"), the required Installation Work shall be conducted by the Proponent, within a reasonable period of time of the Township's written request therefore and in accordance with the terms of this Agreement respecting Installation Work. Subject to Sections 6.7 and 6.8, if the Relocation occurs before the tenth anniversary of the Commercial Operation Date, the Township shall reimburse the Proponent for one hundred percent (100%) of the costs of the alteration or relocation of the installed Electrical Infrastructure system. If the Relocation occurs after the tenth anniversary of the Commercial Operation Date, the Township shall reimburse the Proponent for thirty percent (30%) of the costs of the alteration or relocation of the



installed Electrical Infrastructure system. The Parties shall cooperate with each other regarding any reimbursement or compensation, if any, available to such Parties to ensure that each receives the maximum reimbursement or compensation to which they are entitled in connection with the Relocation.

- 6.7. If the provisions of Section 6.6 are triggered as a result of the Township's compliance with a federal or provincial legislative requirement, Ministerial order or other law or order of a body which has the ability to force the Township to act, then the Township shall bear thirty percent (30%) of the costs of the Relocation. The Parties shall cooperate with each other regarding any reimbursement or compensation, if any, available to such Parties to ensure that each receives the maximum reimbursement or compensation to which they are entitled in connection with the Relocation.
- 6.8. Where any part of the installed Electrical Infrastructure relocated in accordance with Section 6.7 is located on a bridge, viaduct or similar structure, the Proponent shall modify or relocate that part of the Electrical Infrastructure at its sole expense.
- 6.9. In the event that the Township, acting reasonably and after diligently investigating all other feasible alternatives, deems it necessary that installed Electrical Infrastructure or Entrances be modified or relocated by a third party ("Third Party Work"), the required Installation Work shall be conducted by the Proponent in accordance with the terms of this Agreement respecting Installation Work, and the full costs of such Installation Work shall be borne solely by the third party. Notwithstanding the foregoing and subject to Applicable Law, the Township agrees that it will not permit such Third Party Work, without the approval of the Proponent, if such Third Party Work would adversely affect the Work, the Wind Project or the exercise of the Proponent's rights under this Agreement. The Township agrees to give the Proponent sixty (60) days' notice of the need for any such Third Party Work and, subject to Applicable Law, to require that the relevant third party or parties bear the full cost of the Proponent's Installation Work and indemnify the Proponent against all claims and liabilities arising from the required Installation Work as a condition precedent to any grant, permit or approval from the Township for the Third Party Work.

## 7. Haul Routes

- 7.1. Without limiting the generality of Section 2.1, the Proponent and the Township acknowledge that the Proponent is currently planning to use the Haul Routes identified in **Schedule "A"** for the purpose of overweight or over-size Deliveries required for the Wind Project and the Work and the Township agrees that such Haul Routes shall be available for such Deliveries.
- 7.2. To the extent that the Proponent proposes to relocate the Haul Routes identified in **Schedule "A"** to another location, the Proponent shall submit plans identifying the proposed location of the Haul Routes for the review and approval of the Township, which approval shall not be unreasonably delayed withheld or conditioned. The Township, acting reasonably and with diligence, shall review such plans not later than thirty (30) days following receipt of same and either approve the proposed location of the Haul Routes or, subject only to good engineering practice and Applicable Law, advise the Proponent in writing of any modifications or amendments to the proposed location of the Haul Routes that the Township may seek and the reasons therefore. During its review of such plans the Township shall be entitled to take into consideration any specific municipal or engineering interests affected by such plans. The Township shall exercise

commercially reasonable efforts to review the plans in an expedited manner and shall not unreasonably withhold or delay such approval. Without limiting the generality of the foregoing, if the Township advises the Proponent that it seeks modifications or amendments to the location of the Haul Routes as aforesaid, the Township agrees to promptly meet with the Proponent, and use best efforts and act in good faith, to identify and approve amended or modified Haul Routes that are mutually acceptable, feasible and commercially reasonable as soon as reasonably possible thereafter.

#### 8. Repair Work

- 8.1. The Proponent shall be entitled to conduct Repair Work without prior approval of the Township provided that:
- (a) all Repair Work complies with the requirements of Sections 4 and 10 of this Agreement; and
  - (b) except in cases of Emergency, the Proponent gives at least ten (10) days' notice to the Township that Repair Work will occur if such Repair Work:
    - (i) will have or is likely to have Traffic Effects;
    - (ii) will involve or is likely to involve Tree Work as defined hereinafter; or
    - (iii) could present a danger to public health and safety.

#### 9. Entrances and Entrance Work

- 9.1. Subject to the limitation in Section 9.2 below, the Township agrees to clear snow from and otherwise maintain and repair the Road Allowances identified in **Schedule "B"** so as to permit adequate vehicular access from the Road Allowances to the Entrances to access roads leading to Wind Project infrastructure.
- 9.2. To the extent that the Township as of the Effective Date does not routinely clear snow from or otherwise maintain adequate vehicular access to and from Road Allowances not identified in **Schedule "B"**, the Township is not obliged to begin doing so unless and until the Parties acting reasonably agree in writing on reasonable compensation to be paid by the Proponent to the Township for undertaking such additional snow clearance and maintenance work. Upon reaching such an agreement, **Schedule "B"** hereto shall be amended to identify the additional Road Allowances that the Township agrees to maintain pursuant to Section 9.1 of this Agreement.

#### 10. Tree Work

- 10.1. In the event that the Proponent, acting reasonably, deems it necessary for purposes of undertaking, completing or maintaining the Work, to cut, trim or remove trees or bushes growing in the Road Allowances, the Proponent shall be entitled to conduct the necessary Tree Work provided the Proponent makes reasonable efforts to minimize the amount of Tree Work and provides notice of the Tree Work to the Township.
- 10.2. In the event that trees are removed from within the Road Allowances, the Proponent



agrees, at its sole expense, to remove the tree stump to a level below grade and to restore and remediate the surface of the Road Allowance in accordance with Section 4.4 of this Agreement.

- 10.3. In the event that Tree Work involves removal of trees from the Road Allowance, the Proponent shall offer, in writing, to the adjacent landowner to replace, at the Proponent's sole expense, such trees on such adjacent landowner's property, in accordance with the following protocol:

- (a) Trees below 3 cm dbh (diameter at breast height) will not be replaced;
- (b) Trees 3 cm dbh or greater but less than 15 cm dbh will be replaced at a ratio of two (2) trees for each tree removed;
- (c) Trees 15 cm dbh or greater but less than 30 cm dbh will be replaced at a ratio of three (3) trees for each tree removed; and
- (d) Trees greater than 30 cm dbh will be replaced at a ratio of five (5) trees for each tree removed.

- 10.4. Written offers to replace trees pursuant to Section 10.3 of this Agreement shall be consistent with the Township of West Lincoln Quality Standards for Brushing, Tree Trimming and Removal and shall include a schedule of available tree species. Landowners receiving such offers shall be entitled to select from this schedule the tree species or mix of tree species that they wish to receive as replacement trees.

- 10.5. In the event that an affected landowner does not wish to receive replacement trees, the Proponent may, in its sole discretion, offer such trees to other neighbouring landowners or may cooperate with the Township to find suitable alternative locations for such trees within the Township.

#### 11. Abandonment and Decommissioning of Electrical Infrastructure

- 11.1. The Parties agree that the Proponent may from time to time during the Term of this Agreement, permanently discontinue the use of ("Abandon") all or any part of the Electrical Infrastructure. The Proponent shall give written notice of any Abandonment to the Township within sixty (60) days of such Abandonment, specifying the part of the Electrical Infrastructure that has been Abandoned.

- 11.2. If the Proponent Abandons any part or all of the Electrical Infrastructure, the Proponent shall have the right to remove such part of its Electrical Infrastructure as has been Abandoned, but if the Proponent does not remove the Electrical Infrastructure that has been Abandoned, the Proponent shall deactivate all Abandoned Electrical Infrastructure and certify to the Township that such Electrical Infrastructure has been deactivated within sixty (60) days of its Abandonment.

- 11.3. The Proponent shall provide the Township with a copy of the Wind Project's Decommissioning Plan once it has been approved by the Ministry of the Environment as part of the Proponent's Renewable Energy Approval application. The Proponent shall consult with the Township in good faith in developing a Decommissioning Plan with respect to the Electrical Infrastructure within the Road Allowances in the event of

Abandonment at least five (5) years prior to the expiry of the Agreement. The negotiated Decommissioning Plan shall be attached as **Schedule "E"**. The Township shall not be responsible for costs associated with decommissioning the Electrical Infrastructure within Road Allowances. If the Proponent Abandons part of its Electrical Infrastructure affixed to a bridge, viaduct or structure, the Proponent shall, at its sole expense, remove that part of its Electrical Infrastructure. If the Proponent Abandons part of its Electrical Infrastructure affixed to a bridge, viaduct or structure, the Proponent shall, at its sole expense, remove that part of its Electrical Infrastructure.

- 11.4. Notwithstanding the foregoing, the Township agrees that any Abandoned Electrical Infrastructure buried at a depth of more than three (3) feet below the surface may be left in place. Any Abandoned Electrical Infrastructure that is finally left in place upon the completion of decommissioning shall become the property of the Township.
- 11.5. If the Township so requests in writing, the Proponent will deliver to the Township a Decommissioning Security in an amount to be negotiated and mutually agreed upon by the Parties, acting reasonably, ("Decommissioning Security") on a date which is the later of (i) three (3) years prior to the expiry of the Agreement; (ii) three (3) years prior to the expiry of any applicable renewal term; and (iii) twenty (20) days following the Town's written request for Decommissioning Security. If the Proponent provides notice to the Township of its election to extend the term of this Agreement, the Township will promptly return to the Proponent any Decommissioning Security previously delivered to the Township within ten (10) days after the giving of such notice, but in such case if the Township so requests in writing during the renewal term, the Proponent will re-deliver to the Township the Decommissioning Security in accordance with the provisions hereof. If the Parties are unable to agree on the amount of the Decommissioning Security at least sixty (60) days before it is due to be delivered, either party may submit the dispute to be determined by arbitration pursuant to the dispute resolution procedure set out in Section 14.
- 11.6. If the Proponent has failed to meet its obligations in Section 11 of this Agreement, the Township shall have the right to perform or cause to be performed and to do or cause to be done such things as may be necessary to perform the Proponent's obligations under this Section 11 and the Township shall have the right to draw upon any Decommissioning Security for the purpose of performing such obligations on behalf of the Proponent. The Township shall refund or release any undrawn Decommissioning Security to the Proponent within 30 days after the later of (i) the fulfillment of the obligations of the Proponent pursuant to this Section 11; and (ii) two (2) years following the expiry of the term. The Parties agree that the Decommissioning Security may be in the form of a letter of credit issued by a Canadian chartered bank or other security acceptable to the Township acting reasonably.

## 12. Assignment

- 12.1. The Proponent may not assign this Agreement without the written consent of the Township, which shall not be unreasonably withheld, except that no consent shall be required for the Proponent to assign this Agreement to an affiliated or successor entity, or for purposes of securing indebtedness or other obligations respecting the Electrical Infrastructure or the Wind Project. The Township acknowledges that a change in control of the Proponent shall not be considered an assignment by the Proponent of this Agreement or of any of the Proponent's rights and obligations under this Agreement.



- 12.2. For greater certainty, the Proponent shall from time to time during the term of this Agreement be entitled to assign this Agreement and all of its rights hereunder without the consent of the Township to any Secured Party as security for the Proponent's obligations to such Secured Parties, which shall be further entitled to assign this Agreement and the Proponent's rights thereunder in connection with an enforcement of their security. The Township hereby agrees to execute and deliver an Acknowledgement and Consent Agreement in favour of any applicable Secured Party or assignee thereof, in a form acceptable to the Township, acting reasonably.
- 12.3. The Proponent shall be entitled, with the written consent of the Township, which may not be unreasonably delayed, withheld or conditioned, to assign this Agreement to a transferee of the Wind Project other than an affiliated or successor company, and the Proponent shall thereupon be released from any and all obligations under this Agreement from and after the date of such assignment, provided that such assignee has agreed in writing with the Township, in a form acceptable to the assignee and the Township, both acting reasonably, to be bound by the provisions of this Agreement from and after the date of the assignment.

### 13. Default

- 13.1. If a Party commits a breach of or omits to materially comply with any of the provisions of this Agreement (the "Defaulting Party"), the other Party (the "Complainant") may give the Defaulting Party notice in writing specifying the breach complained of and indicating the intention of the Complainant to terminate this Agreement unless the Defaulting Party shall have remedied the breach within the period mentioned in the notice, which period shall be not less than sixty (60) days. If the Defaulting Party shall have within such notice period commenced to remedy the breach and has diligently pursued the remedying thereof, the Defaulting Party shall be allowed one hundred and fifty (150) days after the expiry of the original notice period to remedy the breach. After the expiration of the later of the applicable periods, the Complainant may elect to terminate this Agreement or to remedy the breach, in which case the Defaulting Party shall be liable for reimbursing to the Complainant the reasonable costs of completing said remedy.

- 13.2. Notwithstanding any expiry or termination of this Agreement in accordance with Sections 2.2, 13.1 or otherwise, such expiry or termination shall not derogate from the Proponent's rights under Applicable Law, including the Proponent's statutory right under the Electricity Act, 1998 to construct and install Electrical Infrastructure over, under or on any public street or highway in the Township deemed necessary by the Proponent for the purpose of its transmission or distribution system.

- 13.3. Whenever, and to the extent that a Party will be unable to fulfill or will be delayed or restricted in the fulfillment of any obligation under any provision of this Agreement by reason of:

- (a) strikes;
- (b) lock-outs;
- (c) war or acts of military authority;
- (d) rebellion or civil commotion;
- (e) material or labour shortage not within the control of the affected Party;



- (f) fire or explosion;
  - (g) flood, wind, water, earthquake, or other casualty;
  - (h) changes in Applicable Law not wholly or mainly within the control of the affected Party, including the revocation by any Public Authority of any permit, privilege, right, approval, license or similar permission granted to the Proponent or the Wind Project;
  - (i) any event or matter not wholly or mainly within the control of the affected Party (other than lack of funds or the financial condition of the affected Party); or,
  - (j) acts of God,
- (in each case a "Force Majeure")

not caused by the default or act of or omission by that Party and not avoidable by the exercise of reasonable effort or foresight by it, then, so long as any such impediment exists, that Party will be relieved from the fulfillment of such obligation and the other Party will not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned. A Party shall promptly notify the other Party of the occurrence of any Force Majeure, which might prevent or delay the doing or performance of acts or things required to be done or performed.

#### 14. Dispute Resolution

- 14.1. In the event that either Party provides the other Party with written notice of a dispute regarding the interpretation or implementation of this Agreement (a "Dispute") then both Parties shall use their best efforts to settle the Dispute by consulting and negotiating with each other in good faith to reach a solution satisfactory to both Parties. However, if the Parties do not resolve the Dispute within thirty (30) days following receipt of such notice, then either Party may provide written notice to the other Party (the "Arbitration Notice") requiring resolution by arbitration and thereafter the Dispute shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 1991.
- 14.2. The arbitration tribunal shall consist of one arbitrator appointed by mutual agreement of the Parties or, if the Parties fail to agree on an arbitrator within ten (10) days after receipt of the Arbitration Notice, then either Party may apply to a judge of the Superior Court of Justice to appoint an arbitrator. The arbitrator shall be qualified by education and training to pass upon the matter to be decided.
- 14.3. The arbitration shall be conducted in English and shall take place in the Township or another place mutually agreed upon by the Parties.
- 14.4. The arbitration award shall be given in writing and shall address the question of costs of the arbitration and all related matters. The arbitration award shall be final and binding on the Parties as to all questions of fact and shall be subject to appeal only with respect to matters of law or jurisdiction.
- 14.5. Except to the extent that a matter is specifically the subject of a Dispute, both Parties shall continue to observe and perform the terms and conditions of this Agreement pending the resolution of a Dispute.

15. Further Assurances

- 15.1. Each of the Parties covenants and agrees with the other that it will at all times hereafter execute and deliver, at the request of the other, all such further documents, agreements, deeds and instruments, and will do and perform all such acts as may be necessary to give full effect to the intent and meaning of this Agreement.

16. Liability

- 16.1. The Proponent hereby acknowledges that its performance of the Work and operation of the Electrical Infrastructure and Wind Project is entirely at its own risk and the Township shall in no way and in no circumstances be responsible or liable to the Proponent, its contractors, agents, or customers for any damage or losses in consequence thereof, regardless of how such damage or loss was suffered or incurred, other than damage or loss arising out of the negligence of, intentional misconduct of, or a breach of this Agreement by the Township, anyone directly or indirectly employed by the Township or anyone for whose acts the Township is in law responsible.
- 16.2. The Proponent will indemnify and save harmless the Township from and against all claims, liabilities, losses, costs, damages or other expenses of every kind that the Township may incur or suffer as a consequence of or in connection with the placing, maintenance, operation or repair of the Electrical Infrastructure or any part thereof by the Proponent, including any claims in the tort of nuisance or for injurious affection under the Expropriations Act, except to the extent that such claims, liabilities, losses, costs, damages or other expenses result from the Township's fault or negligence.

17. Notice

- 17.1. All notices, communications and requests for approval which may be or are required to be given by either party to the other herein shall be in writing and shall be given by delivery, by courier or by facsimile addressed or sent as set out below or to such other address or facsimile number as may from time to time be the subject of a notice:

To the Township;

The Corporation of the Township of  
West Lincoln  
318 Canborough Street  
P.O. Box 400  
Smithville, ON L0R 2A0

Attention: Chris Carter, Chief Administrative Officer  
Telephone No.: (905) 957 3346 x 6725  
Facsimile: (905) 957-3219

With a copy to:

Sullivan Mahoney LLP



40 Queen St., P.O. Box 1360  
St. Catharines, ON L2R 6Z2

Attention: Thomas A. Richardson  
Facsimile: (905) 688-5814

To the Proponent:

Niagara Region Wind Corporation  
277 Lakeshore Road East  
Oakville, ON L6J 6J3

Attention: Mervin Croghan, Chairman and Chief Executive Officer  
Telephone No.: (905) 390-3306  
Facsimile: (905) 842-4885  
Emergency Telephone No.: (647) 402-7324

- 17.2. Any notice, if delivered by courier, shall be deemed to have been validly and effectively given and received on the date of such delivery and if sent by facsimile with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the day it was received, whether or not such day is a business day.

#### 18. Governing Law

- 18.1. This Agreement shall be governed by, and be construed and interpreted in accordance with the laws of Ontario and the laws of Canada applicable in Ontario.

#### 19. Miscellaneous

- 19.1. This Agreement may be executed by facsimile or PDF transmission and in one or more counterparts, all of which shall be considered one and the same Agreement.
- 19.2. This Agreement and the rights granted hereunder are and shall be of the same force and effect, to all intents and purposes, as a covenant running with the Road Allowances and these presents, including all of the covenants and conditions herein contained, shall extend, be binding upon and enure to the benefit of the Township and the Proponent, and their respective successors and permitted assigns, as the case may be. The Parties hereby acknowledge and agree that the purpose of the rights granted herein is for the transmission or distribution of electricity within the meaning of the Electricity Act, 1998 and Ontario Energy Board Act, 1998.
- 19.3. Each obligation of the Parties contained in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.
- 19.4. The invalidity or unenforceability of any provision or covenant contained in this Agreement shall affect the validity or enforceability of such provision or covenant only and any such invalid provision or covenant shall be deemed to be severable from the balance of this Agreement, which shall be enforced to the greatest extent permitted by law.
- 19.5. Each covenant in this Agreement is a separate and independent covenant and a breach of

covenant by either Party will not relieve the other Party from its obligation to perform each of its covenants, except as otherwise provided herein.

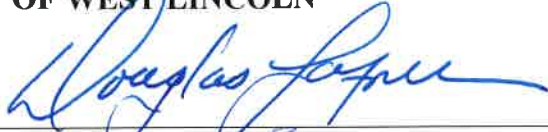
- 19.6. No supplement, modification, amendment, or waiver of this Agreement shall be binding unless executed in writing by the Parties.

*[Remainder of page intentionally left blank.]*

Handwritten signatures in blue ink, likely representing the parties to the agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective as of the Effective Date.

**THE CORPORATION OF THE TOWNSHIP  
OF WEST LINCOLN**



Name: DOUGLAS SOYNER  
Title: MAYOR



Name: CAROLYN LANGLEY  
Title: CLERK

**NIAGARA REGION WIND CORPORATION**



Name: MELVIN CROGAN  
Title: CHAIRMAN & CEO

Name:  
Title:



**Schedule A**  
**Drawings of Electrical Infrastructure & Haul Routes (subject to revision)**

See Attached.

**[Maps not relevant to application excluded due to electronic size; will be provided for completeness in hard copy version sent to the Ontario Energy Board.]**

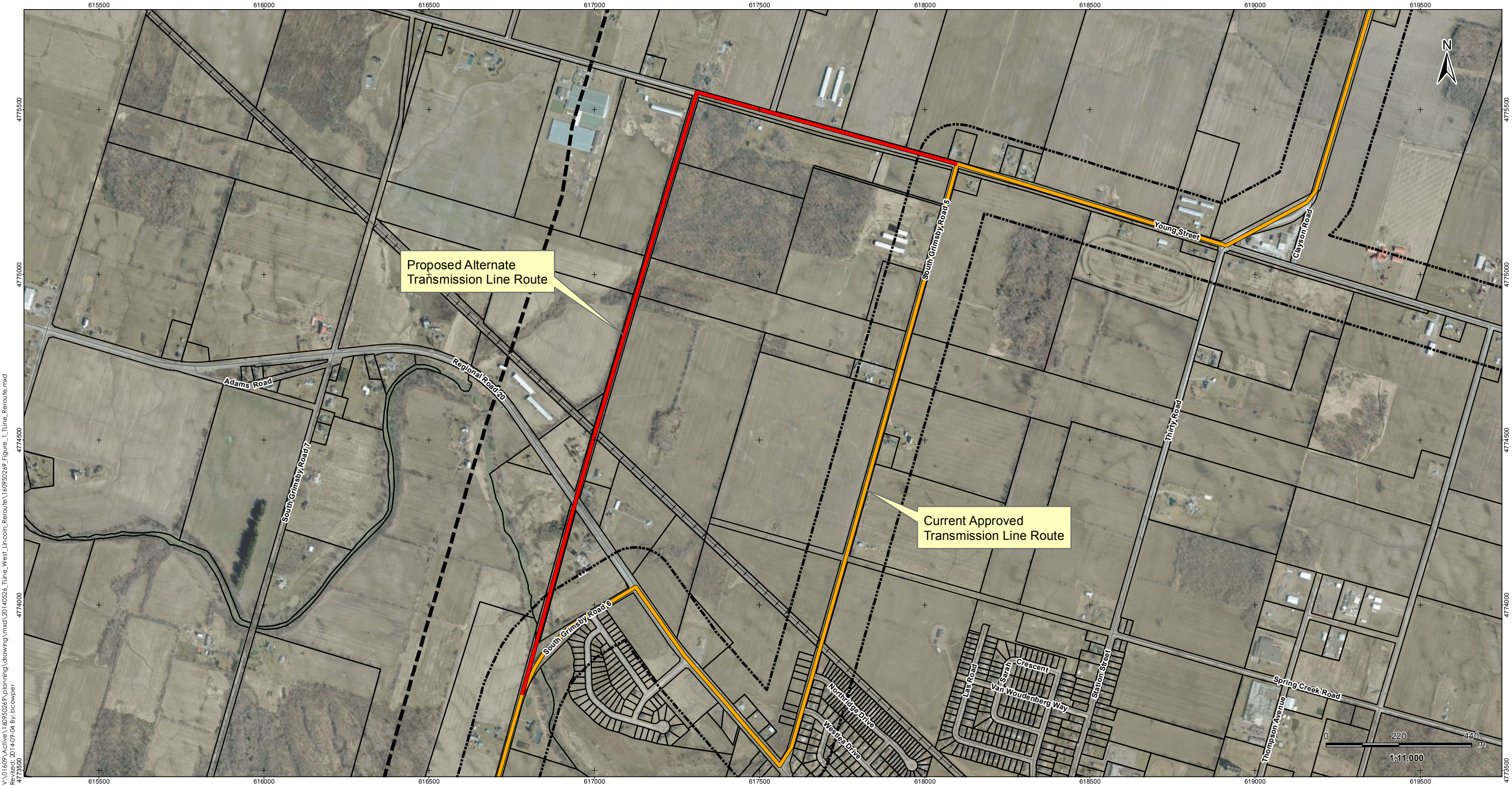
**[Moreover, the entire road use agreement is available at  
<http://westlincoln.ca/~westl172/wp-content/uploads/2014/10/Road-Use-Agreement-with-Niagara-Region-Wind-Corporation-October-14-2014.pdf>]**

**Schedule F**

**Drawing of Proposed Relocated Portion  
of the Above Ground Transmission Line**

See Attached.





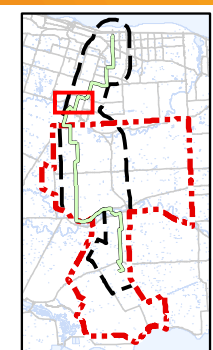
V:\01609\Active\160950269\planning\drawing\mxd\20140526\_TLine\_West\_Lincoln\_Reroute\160950269\_Figure\_1\_TLine\_Reroute.mxd  
Revised: 2014-09-04 By: bcowper

September 2014  
160950269



- Legend**
- Approved Transmission Route
  - Alternate Transmission Route
  - Interconnector Study Area
  - 120m Zone of Investigation

- Notes**
- Coordinate System: NAD 1983 UTM Zone 17N
  - Base features produced under license with the Ontario Ministry of Natural Resources © Queen's Printer for Ontario, 2010.
  - Orthoimagery © First Base Solutions, 2010.



Niagara Region Wind Corporation

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1 **DRAFT**

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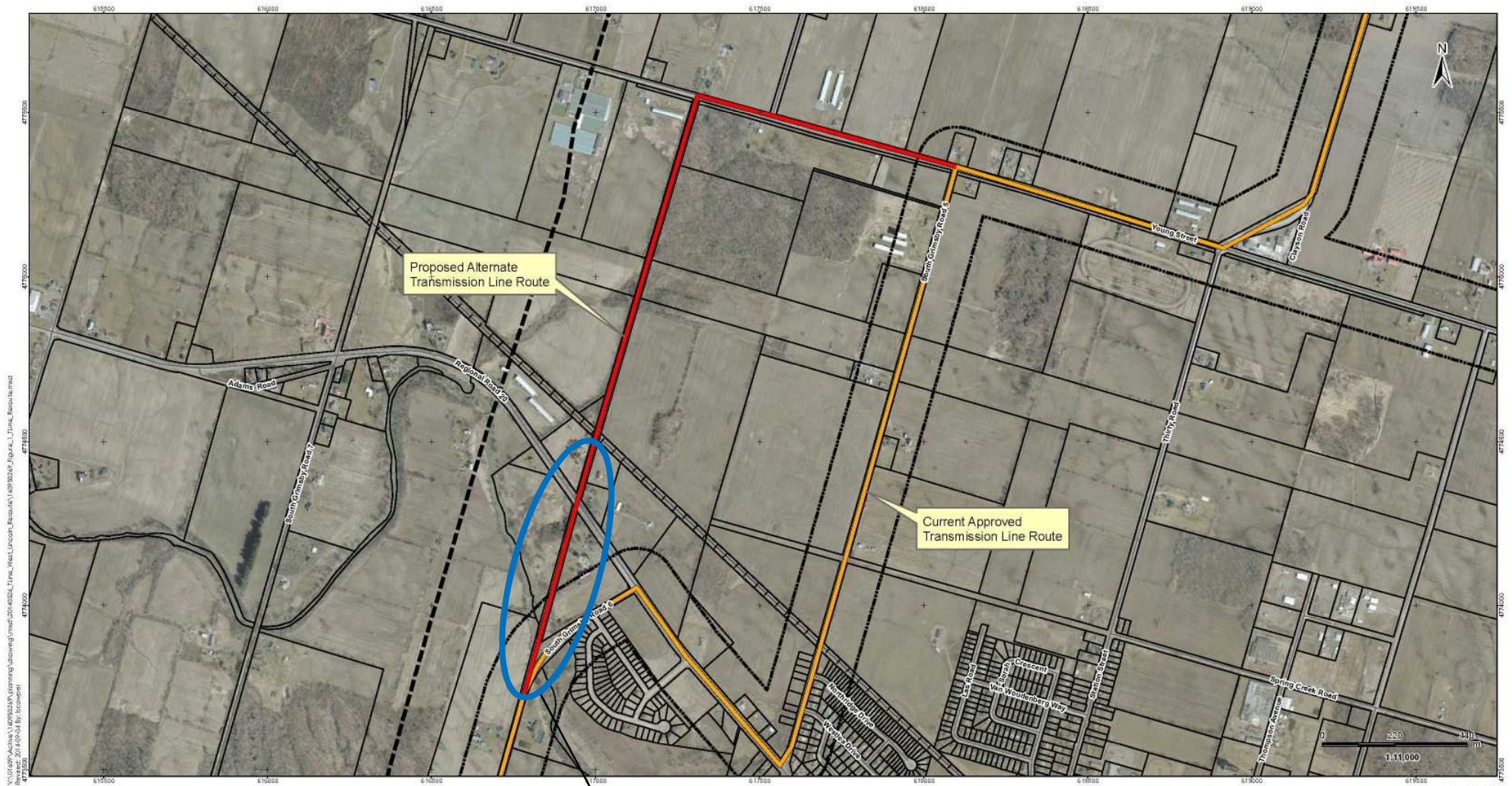
**Proposed Alternate Route  
For Transmission Line**



**SCHEDULE "B"**

**(Please see attached)**





V:\0109\Active\16092524\Planning\dwg\mxd\20140226\_Line\_West Lincoln\_Route\16092524\_Figure\_1\_Time\_Route.mxd  
Revised: 2014/09/24 By: bmoore



- Legend**
- Approved Transmission Route
  - Alternate Transmission Route
  - Interconnector Study Area
  - 120m Zone of Investigation

- Notes**
1. Coordinate System: NAD 1983 UTM Zone 17N
  2. Base features produced under license with the Ontario Ministry of Natural Resources © Geomatics Printer for Ontario, 2010.
  3. Orthoimagery © FirstBase Solutions, 2010.

Disputed Portion of Unopened Road Allowance



Niagara Region Wind Corporation

**DRAFT**

**1**

**Proposed Alternate Route  
For Transmission Line**

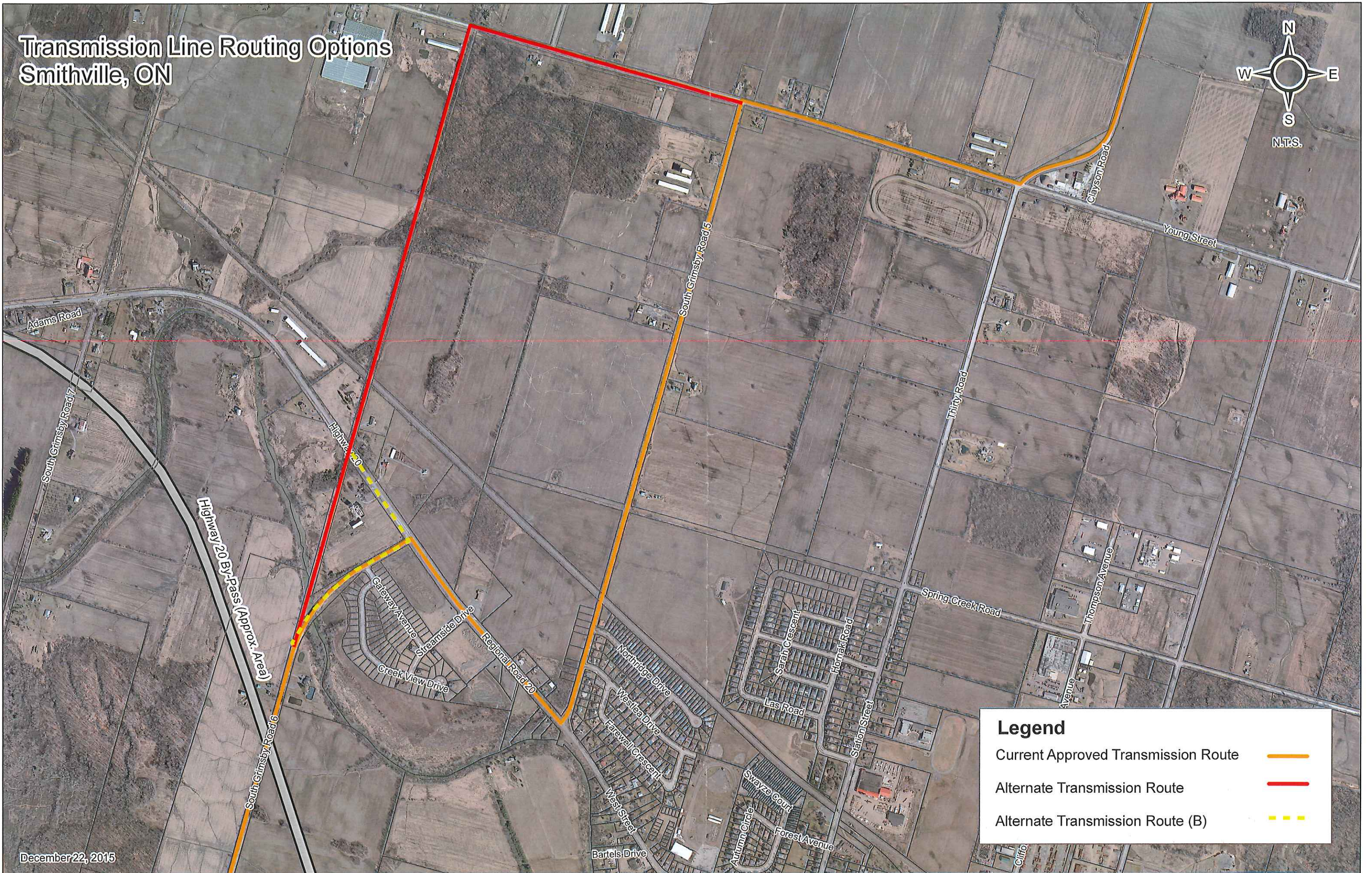
September 2014  
16092524

**SCHEDULE "C"**

**(Please see attached)**



# Transmission Line Routing Options Smithville, ON



**Legend**

Current Approved Transmission Route ———

Alternate Transmission Route ———

Alternate Transmission Route (B) - - -



**SCHEDULE "D"**

**(Please see attached)**

## **Apesteguy-Reux, Heloise**

---

**From:** Nunes, Paul (MTO) <Paul.Nunes@ontario.ca>  
**Sent:** Tuesday, December 15, 2015 9:03 AM  
**To:** Marc Weatherill  
**Subject:** RE: Installation of transmission line poles on HWY3

Hi Marc,

We met with the Manager of the MTO's Corridor Section yesterday, and he has not changed his position on the proposed transmission poles on Hwy 3. The ministry's position continues to be that the transmission poles must be located outside the Hwy 3 right-of-way and set back 14m from the right-of-way.

Should you choose to continue to explore the option of locating the transmission poles within the Hwy 3 right of way, please submit the following for review:

- 1:500 scale drawings
  - Indicating clear zone or protection of poles
- Cross section drawings at pole locations
- Grading Plan & Drainage study or Brief

And the Ministry will review and provide comments.

Please do not hesitate to contact me if you have any further questions.

Respectfully,

**Paul Nunes**

Corridor Management Officer

**Ministry of Transportation**

159 Sir William Hearst Avenue (Formally 1201 Wilson Ave, Building D), 7th Floor,  
Toronto, Ontario M3M 0B7

Tel: (416) 235 5559

Email: [Paul.Nunes@ontario.ca](mailto:Paul.Nunes@ontario.ca)



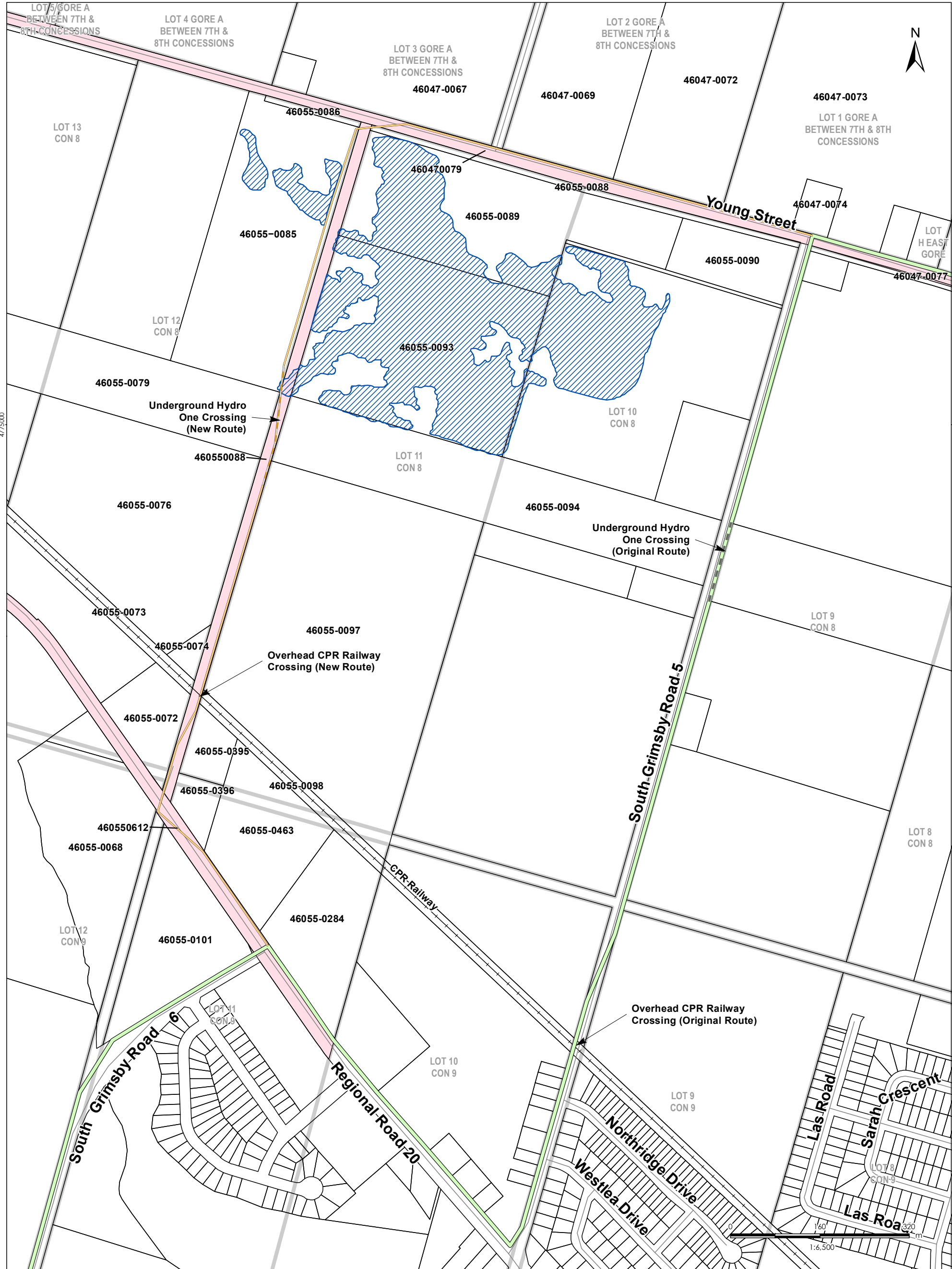
Ontario



**SCHEDULE "E"**

**(Please see attached)**

V:\01609\Active\160950269\planning\drawing\mxd\1\_LTC\_Modifications\_20160310\_Line\_Modifications\_160950269\_Fig\_1\_LTC\_Line\_vet04\_Alt.mxd  
Revised: 2016-06-10 by: bcowper



June 2016  
160950269



#### Notes

1. Coordinate System: NAD 1983 UTM Zone 17N.
2. Base features produced under license with the Ontario Ministry of Natural Resources © Queen's Printer for Ontario, 2011.
3. Smithville By-pass preliminary pole locations are provided by FWRN LP and are subject to change based on final detailed design.

#### Legend

- Public Road
- Active Railway
- Property Boundary
- Overhead Transmission Line Route (LTC as designed)
- Underground Hydro One Crossing Route (LTC as designed)
- Modified Alternate Transmission Route**
  - Modified Alternate Transmission Route - Above Ground
  - Underground

Wetland - Evaluated (Provincial)

#### Client/Project

FWRN LP  
Niagara Region Wind Farm

#### Figure No.

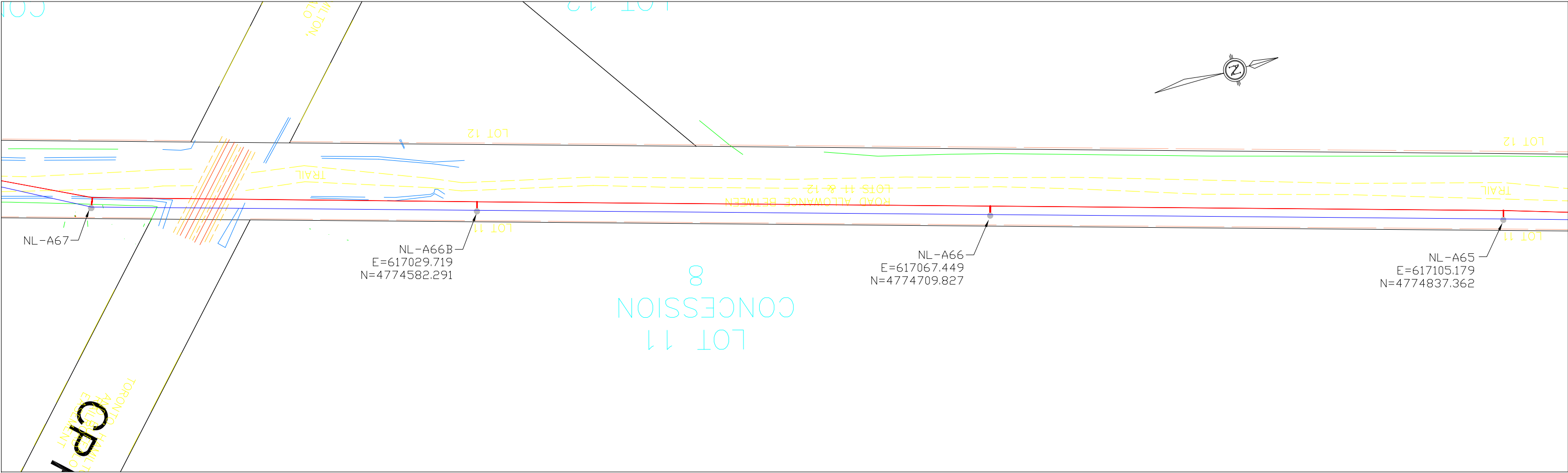
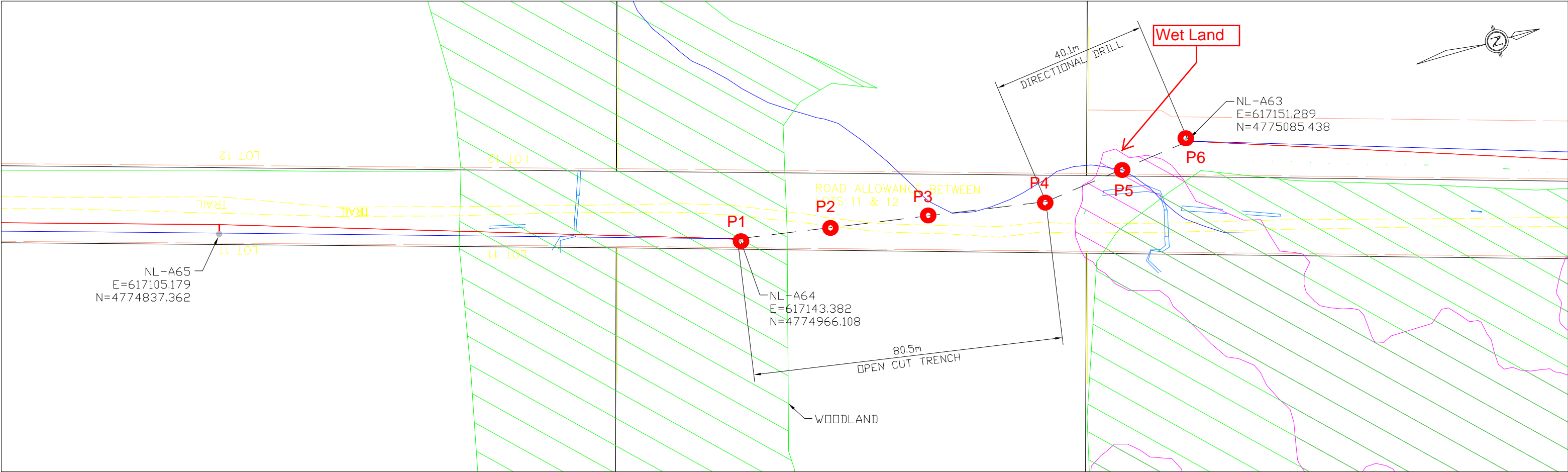
1

#### Title

**Transmission Line  
Alternate Route –  
Smithville By-pass**

**SCHEDULE "F"**

**(Please see attached)**

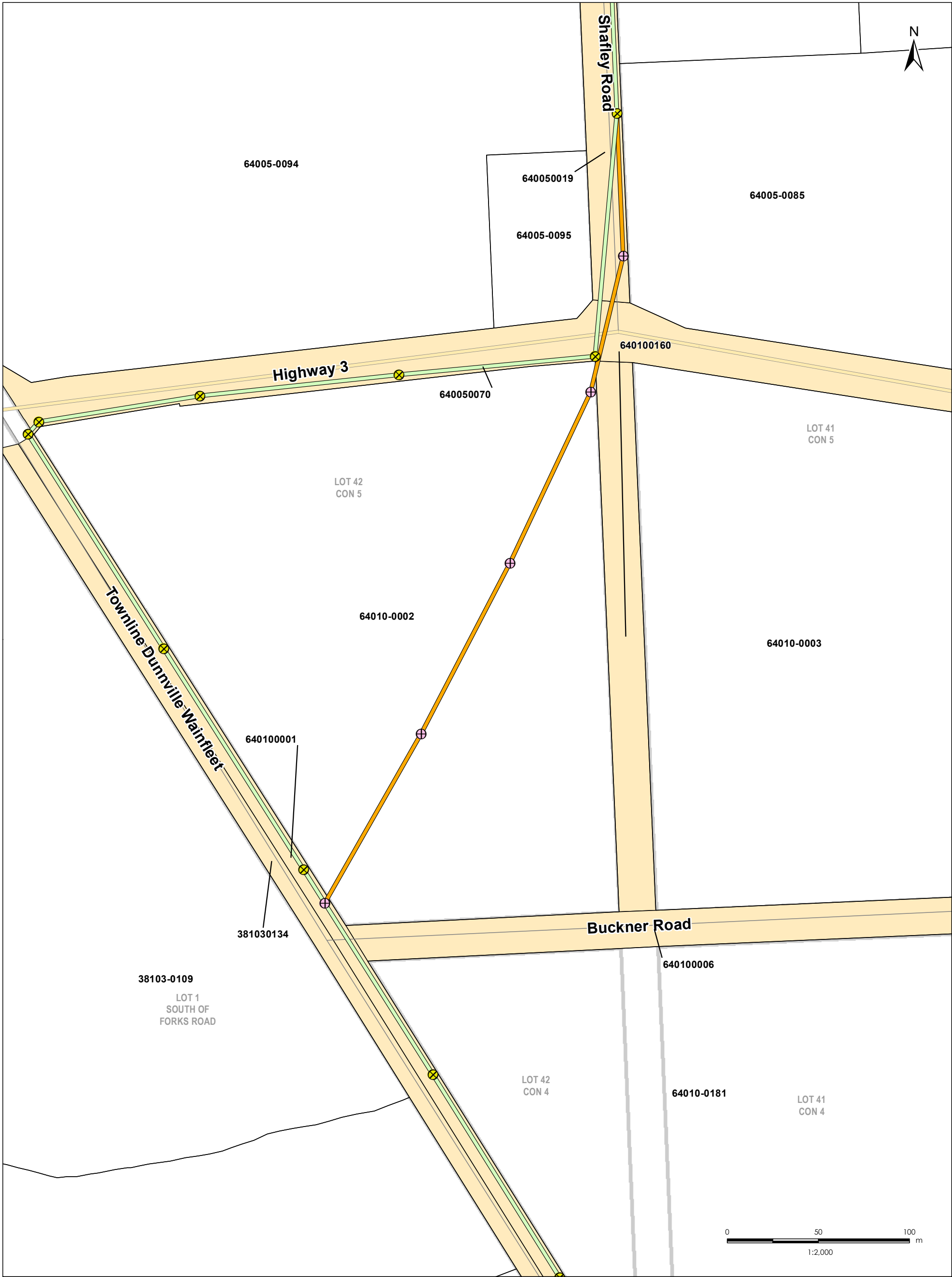


**SCHEDULE "G"**

**(Please see attached)**



V:\01609\Active\160950269\planning\drawing\mxd\LTIC\_Modifications\20160310\_Tline\_Modifications\160950269\_Fig\_1\_LTIC\_Tline.mxd  
Revised: 2016-03-11 By: bcowper



March 2016  
160950269



**Notes**  
1. Coordinate System: NAD 1983 UTM Zone 17N.  
2. Base features produced under license with the Ontario Ministry  
3. of Natural Resources © Queen's Printer for Ontario, 2011.  
Smithville By-pass preliminary pole locations are provided by  
FWRN LP and are subject to change based on final detailed  
design.

#### Legend

- Public Road
- Public Expressway / Highway
- Property Boundary
- Pole Locations – FWRN LP detailed design
- Transmission Line Route (LTC as designed)
- Pole Locations (Highway 3 Bypass)
- Modified Alternate Transmission Route

Client/Project

FWRN LP  
Niagara Region Wind Farm

Figure No.

1

Title

**Transmission Line  
Alternate Route –  
Highway 3 Bypass**

**SCHEDULE "H"**

**(Please see attached)**

## Apesteguy-Reux, Heloise

---

**Subject:** FW: XW, 524, 38-48, O/H Wire Permit, No Occupation, FWRN LP, Smithville, CP mile 38.48 Hamilton Subdivision - Fast Track Approval  
**Attachments:** image2016-05-11-114754.pdf; Sfty Briefing Card.pdf.pdf

---

**From:** Karen Smith [[mailto:Karen\\_Smith@cpr.ca](mailto:Karen_Smith@cpr.ca)]  
**Sent:** Wednesday, May 11, 2016 12:48 PM  
**To:** Kevin Kehoe  
**Cc:** Jack Carello; Ray Pettley; Mark Jaraczak; Call B 4 U Dig  
**Subject:** XW, 524, 38-48, O/H Wire Permit, No Occupation, FWRN LP, Smithville, CP mile 38.48 Hamilton Subdivision - Fast Track Approval

FYI – Hard copy approval package is to follow in mail, to your attention.

---

May 11, 2016

File No.: XW, 524, 38-48  
Agreement No.: XW52403848A

FWRN LP  
4827 Vaughan Road East  
Wellandport, ON L0R 2J0

**Attention: Kevin Kehoe**

Dear Sir,

**Re: Fast Track Approval – Wire Permit to Install and Maintain a 115KV Transmission Line with 6 Wires and 1 Neutral Running Over and Across CP Tracks and Within the South Grimsby Road Allowance, CP mile 38.48 Hamilton Sub., Smithville, ON**

This refers to the application dated March 29, 2016 and received in our office on May 6, 2016 proposing to carry out installation work as described above and as shown on the attached drawing# 1524-P2003-S03, dated April 11, 2016 (approved as to railway clearances only). Attached is the Contractor Safety Briefing Card (2 pages) that applies to all non-CP personnel. This document provides you with general orientation information and basic safety requirements that must be adhered to when working on Canadian Pacific (CP) property.

Canadian Pacific has no objection to the proposed construction on the understanding that construction and maintenance will be fully in accordance with the Canadian Transportation Commission General Order Nos. E-11 and E-12.

Please contact Jack Carello of our office to set up flagging for this installation; Jack may be reached at [jack\\_carello@cpr.ca](mailto:jack_carello@cpr.ca) or by cell (416) 992-2676. Please be advised that FWRN LP will be responsible for any associated flagging charges. If a flagperson is required, please be advised that CP has adopted a No-Overtime policy effective immediately. No request for overtime beyond 40 hours per week will be considered. The normal work week for CP employees is 40 hours per week, typically Mondays to Fridays, of work days from 0700 to 1500, including any travel time and subject to availability of CP resources. Be prepared to provide a PO# to Jack Carello when you book for flagging protection. **Please pass on the above information to your contractors. No work shall commence until Jack Carello has been contacted and confirmation from Jack Carello has been received with respect to this approval.**

Protection of CP signal facilities is required. Please contact CP's Call-Before-You-Dig (CBYD) at 1-888-248-4410 providing at least one week's notice in advance in order to set up locates or get clearance.

Your facility will be crossing existing fibre optic cables. In addition to the required depth below the base of rails, you must maintain a 0.6 meter separation from the fibre cables. Please phone the following third party CBYD numbers to arrange for locates prior to the installation of your facility:

Level 3 Communications: 1-877-366-8344

**Please note: This document MUST be present when requesting locates.**

**Please be advised that no work may begin without first contacting and receiving confirmation from Jack Carello.**

Transport Canada now requires utility Applicants dealing with utility crossings to provide contact telephone numbers in case of emergencies, railway derailments or other incidents that may jeopardize the integrity of the utility. Please provide CP with this required information immediately if you have not already done so.

Once all information with respect to this fast track permit has been entered into our billing system, FWRN LP will be billed a combined one-time fast track & application/documentation/engineering fee of \$2,400.00 (billed as a documentation fee) plus a one-time fee of \$575.00 which represents the permit fee, for a total invoiced amount of \$2,975.00 plus HST. We acknowledge receipt of your company's cheque in the amount of \$3,361.75 which is payment for this total invoiced amount; the invoice you will receive in the near future will be for record purposes only as full payment has been received.

If you have any questions concerning this Permit, please do not hesitate to contact Jack Carello at (905) 803-3417.

Sincerely yours,

Karen Smith  
Supervisor Utilities - Agreements

Encs.

cc: Mark Jaraczak - CP S&C Manager Maintenance

**Karen Smith** | Supervisor Utilities - Agreements, Public Works | 1290 Central Parkway West, Suite 800, Mississauga, ON L5C 4R3  
905 803 3420 **CP**

----- IMPORTANT NOTICE - AVIS IMPORTANT ----- Computer viruses can be transmitted via email. Recipient should check this email and any attachments for the presence of viruses. Sender and sender company accept no liability for any damage caused by any virus transmitted by this email. This email transmission and any accompanying attachments contain confidential information intended only for the use of the individual or entity named above. Any dissemination, distribution, copying or action taken in reliance on the contents of this email by anyone other than the intended recipient is strictly prohibited. If you have received this email in error please immediately delete it and notify sender at the above email address. Le courrier électronique peut être porteur de virus informatiques. Le destinataire doit donc passer le présent courriel et les pièces qui y sont jointes au détecteur de virus. L'expéditeur et son employeur déclinent toute responsabilité pour les dommages causés par un virus contenu dans le courriel. Le présent message et les



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----- IMPORTANT NOTICE - AVIS IMPORTANT -----

**Adam Rosso**

Directeur dev. projets Ontario / Director, Project Dev. Ontario

T. +1-844-363-6430

C. +1-416-389-8942

adam.rosso@boralex.com

174, Mill Street Suite 201

Milton, (Ontario), L9T 1S2

www.boralex.com

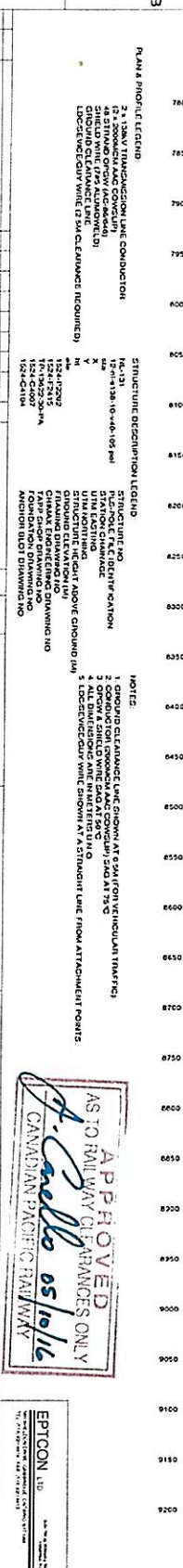
@BoralexInc

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This email and its attachments may contain information that is privileged or confidential. If you are not the intended recipient and have received this email in error, please notify the sender, delete it and destroy all copies of this email. Unauthorized disclosure of its contents, use or copy is prohibited.

Mileage: 38.48  
Subdivision: HAMILTON

[illegible]

APPROVED  
AS TO RAILWAY CLEARANCES ONLY  
*A. Carle* 05/10/16  
CANADIAN PACIFIC RAILWAY

 **Chimax Inc.**  
Engineering Computer  
3707 Main Street, Suite 100  
Baltimore, MD 21204  
E-mail: [info@chimax.com](mailto:info@chimax.com)

**EPTCON LTD**  
 445, rue de l'Industrie, Saguenay (Québec) J1R 1A5  
 Tél. (418) 766-6666, 766-6667



**CANADIAN  
PACIFIC**

**Form SCI-CAN**

## **CONTRACTOR SAFETY BRIEFING CARD (Canada)**

**(applies to all non Canadian Pacific personnel)**

Canadian Pacific (CP) is committed to provide a safe and healthy working environment for all Railway and Contractor employees and welcomes you to its property. This document provides you with general orientation information and basic safety requirements that must be adhered to when working on the railway's property. Full requirements are contained in the "Minimum Safety Requirements for Contractors Working on Railway Property."

**CANADIAN PACIFIC'S MINIMUM SAFETY REQUIREMENTS FOR CONTRACTORS WORKING ON RAILWAY PROPERTY IS THE MINIMUM SAFETY REQUIREMENTS TO BE FOLLOWED AT ALL TIMES.**

Note -

Prior to the commencement of any work at the worksite, a local safety orientation must be conducted in conjunction with Canadian Pacific and shall include the following:

- Hazard identification/risk assessment of hazards inherent in the work to be undertaken or generated by the work processes to be used.
- Various controls used to mitigate risk of the hazards present both as a result of the railway and contractor work processes.
- Local communication procedures including emergency call-out/response.
- Local evacuation procedures.

### **Qualifications and Personal Conduct:**

- Contractor employees must be fully qualified and experienced in the work to be done.
- The use and/or possession of any drug or alcoholic beverage is prohibited.
- The use of drugs, medication or mood-altering agents, including those prescribed by a doctor, which will adversely affect the ability to work safely, is prohibited.
- Smoking is prohibited in all buildings and where there is a risk of fire or explosion.

### **Personal Protective Equipment and Clothing:**

- CSA approved equipment to be worn at all times includes:
  - Steel toe safety boots.
  - Hard-hats.
  - Safety glasses with permanently attached side shields.
  - High visibility vests.
- CSA approved equipment to be available and worn when site conditions or regulations require includes:
  - Fall protection equipment as required by applicable codes.
  - Testing, monitoring and rescue equipment where confined spaces are encountered
  - Welding goggles, gloves and chaps.
  - Respirators appropriate for the hazard present.
  - Hearing protection to be worn in all designated locations and as per all applicable codes and regulations.
- Clothing:
  - Shirts with sleeves must be worn at all times.
  - Pants must be at least ankle length.

### **Protection of Railway Traffic and Property:**

- The work shall be organized and executed in such a manner as to ensure no interference with the safety of railway operations.
- The railway shall determine where flag persons are required to protect railway operations and arrange for it.
- Unless authorized in writing, no temporary structures, material or equipment shall be installed closer than 12 feet to the nearest rail.



- During the passage of trains or track units, the Contractor's equipment shall not be operated when within 50 feet of the track unless specifically authorized. During such times, the operator of the equipment shall secure/lower equipment to the ground and vacate the equipment and stand well clear of the track (at least 20 feet back where possible) until the entire train/equipment has passed the work site. When working in multi-track territory operators shall exit to the non-live side of the track and position themselves in a safe area 20 feet from the track as a minimum where possible (do not stand on or between adjacent tracks).
- Unless authorized in writing, Contractor employees are not permitted to operate or ride any CP rolling stock.
- Unless authorized in writing, operating CP vehicles is prohibited.
- The use of CP tools and materials is not permitted.
- Altering, obstructing or operating any components of track, bridges, signals or other railway equipment is prohibited unless specifically authorized and qualified.

#### **Site Conditions and Work Site Safety:**

- Prior to commencing any work, the Contractor shall ensure that he has taken the time to identify all site conditions that may be a hazard or a potential hazard including the location of underground services and overhead power lines.
- Railway pole lines carry electric power and should be treated as any other power line.
- When required by CP or by the Contractor, job briefings must be conducted in which all Contractor supervisors, employees and sub-contractors must attend. When railway employees are assigned to provide track protection, daily job briefings are mandatory and these railway employees must be included in the briefing.
- All equipment and materials are to be secured and stored well clear of all tracks. Sightlines at grade crossings must not be obscured.
- All mobile equipment must be equipped with beacons and backup alarms.
- All lifting apparatus such as steel cables, nylon slings, chains, shackles, etc., must be safety certified.
- Excavations shall not be left unattended unless they are properly protected; and the CP supervisor shall be notified.
- Be conscious to protect the natural, physical and biological environment of the work site, and comply with all environmental regulations.
- Advise the CP Supervisor in charge, of all hazardous materials that will be used in the work in accordance with WHIMS requirements and make the latest Material Safety Data Sheets (MSDS) available.

#### **Injury and Emergent Situations:**

- Immediately advise the CP supervisor in charge, of all injuries on the site.
- In the case of an emergency where a hazardous condition may affect the safe passage of trains, immediately report the condition to the CP supervisor.
- If the CP supervisor is not immediately available, the Contractor shall:
  - for emergencies (i.e. incidents, injuries, fire, etc.);
  - for hazards relating to the safe passage of trains;
  - for spills

**Call the Network Management Centre (NMC) at 1-800-795-7851 (Calgary)**

- for hazards or incidents requiring CP Police Services, **call 1-800-716-9132**

- In the event of a hazardous condition, make every safe and practicable attempt to stop trains well in advance of the hazardous area.

#### **Compliance with CP's Minimum Safety Requirements for Contractors:**

- Non-compliance to CP's Minimum Safety Requirements for Contractors Working on Railway Property will result in the closing down of the work site and the contractor's personnel will be required to leave railway property.



**SCHEDULE "I"**

**(Please see attached)**

**Ministry of Tourism, Culture and Sport**

Archaeology Programs Unit  
Programs and Services Branch  
Culture Division  
401 Bay Street, Suite 1700  
Toronto ON M7A 0A7  
Tél.: (416) 314-7123  
Email: meagan.brooks@ontario.ca

**Ministère du Tourisme, de la Culture et du Sport**

Unité des programmes d'archéologie  
Direction des programmes et des services  
Division de culture  
401, rue Bay, bureau 1700  
Toronto ON M7A 0A7  
Tél. : (416) 314-7123  
Email: meagan.brooks@ontario.ca



Mar 16, 2016

Jim Wilson (P001)  
Stantec Consulting  
400 - 1331 Clyde Ottawa ON K2C 3G4

**RE: Review and Entry into the Ontario Public Register of Archaeological Reports: Archaeological Assessment Report Entitled, "Stage 2 Archaeological Assessment: Modified Alternate Transmission Route, Niagara Region Wind Project. Part of Lots 1 to 3, Gore A Between 7th and 8th Concessions and the Road Allowance Between Lots 11 and 12, Concessions 8 and 9, Geographic Township of Grimsby, former Lincoln County, Township of West Lincoln, now Regional Municipality of Niagara, Ontario", Dated Feb 12, 2016, Filed with MTCS Toronto Office on Feb 29, 2016, MTCS Project Information Form Number P001-0885-2016, MTCS File Number 26EA078**

Dear Mr. Wilson:

This office has reviewed the above-mentioned report, which has been submitted to this ministry as a condition of licensing in accordance with Part VI of the Ontario Heritage Act, R.S.O. 1990, c 0.18.<sup>1</sup> This review has been carried out in order to determine whether the licensed professional consultant archaeologist has met the terms and conditions of their licence, that the licensee assessed the property and documented archaeological resources using a process that accords with the 2011 Standards and Guidelines for Consultant Archaeologists set by the ministry, and that the archaeological fieldwork and report recommendations are consistent with the conservation, protection and preservation of the cultural heritage of Ontario.

The report documents the assessment/mitigation of the study area as depicted in Figure 1 and Figures 3.1 to 3.3 of the above titled report and recommends the following:

The Stage 2 assessment of the proposed modified alternate transmission route resulted in the identification of no archaeological resources. Therefore, it is recommended that no further archaeological assessment of the property is required.

The Ministry of Tourism, Culture and Sport is asked to accept this report into the Ontario Public Register of Archaeological Reports.

Based on the information contained in the report, the ministry is satisfied that the fieldwork and reporting for the archaeological assessment are consistent with the ministry's 2011 Standards and Guidelines for Consultant Archaeologists and the terms and conditions for archaeological licences. This report has been entered into the Ontario Public Register of Archaeological Reports. Please note that the ministry makes no

representation or warranty as to the completeness, accuracy or quality of reports in the register.

Should you require any further information regarding this matter, please feel free to contact me.

Sincerely,

Meagan Brooks  
Archaeology Review Officer

cc. Archaeology Licensing Officer  
Adam Rosso, FWRN LP  
Mohsen Keyvani, MOECC, Environmental Approvals Branch

<sup>1</sup>In no way will the ministry be liable for any harm, damages, costs, expenses, losses, claims or actions that may result: (a) if the Report(s) or its recommendations are discovered to be inaccurate, incomplete, misleading or fraudulent; or (b) from the issuance of this letter. Further measures may need to be taken in the event that additional artifacts or archaeological sites are identified or the Report(s) is otherwise found to be inaccurate, incomplete, misleading or fraudulent.





**Ministry of Tourism, Culture and Sport**

Heritage Program Unit  
Programs and Services Branch  
Culture Division  
401 Bay Street, Suite 1700  
Toronto ON M7A 0A7  
Tel: 416 314-7145  
Fax: 416 212-1802

**Ministère du Tourisme, de la Culture et du Sport**

Unité des programmes patrimoine  
Direction des programmes et des services  
Division de culture  
401, rue Bay, bureau 1700  
Toronto ON M7A 0A7  
Tél: 416 314-7145  
Télé: 416 212-1802



April 11, 2016

Meaghan Rivard  
Stantec Consulting Limited  
49 Frederick Street  
Kitchener, ON N2H 6M7  
E: Meaghan.Rivard@stantec.com

<b>Project:</b>	<b>Niagara Region Wind Farm</b>
<b>Feed-in Tariff Number:</b>	<b>FIT-FLKZ509</b>
<b>Report Title:</b>	<b>Proposed Alternate Transmission Line Route to by-pass Smithville, Ontario</b>
<b>Applicant:</b>	<b>Niagara Region Wind, Heritage Assessment Review (amendment)</b>
<b>Location:</b>	<b>Niagara Region Wind Corporation</b>
	<b>Townships of West Lincoln and Wainfleet and Town of Lincoln in the Regional Municipality of Niagara, and portions of Haldimand Country.</b>
<b>MTCS File No.:</b>	<b>00EA080</b>

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Dear Meaghan Rivard:

This office has reviewed the above-mentioned report (the "Report"), which has been submitted to this ministry as required under O. Reg. 359/09, as amended (Renewable Energy Approvals under the *Environmental Protection Act*) (the "REA regulation"). This letter constitutes the Ministry of Tourism, Culture and Sport (the "Ministry") comments for the purposes of section 23(3)(a) of the REA regulation regarding the heritage assessment undertaken for the above project.

The Report recommends the following:

**Recommendations**

Potential negative impacts identified for the cultural heritage resources situated at 6648 and 6671 Young Street are generally of three types:

- Indirect impacts resulting from construction vibrations of the potential installation of new infrastructure (i.e., access roads, collector lines) in close proximity to structures;
- Direct impacts related to the damage or removal of heritage attributes (i.e., built components such as fencing, or cultivated plants or trees) resulting from the construction of new Project infrastructure; and
- Visual impacts with respect to views from public spaces.

In order to lessen or avoid potential indirect negative impacts from construction vibrations, the following recommendations have been made:

- In the event that new Project infrastructure is constructed in the vicinity of identified CHRs, it is recommended that construction be avoided within 50 m of any structures associated with these cultural heritage resources.
  - If construction within a 50 m bufferzone cannot be avoided, maximum acceptable vibration levels, or peak particle velocity (PPV) levels, should be determined by a qualified engineer with previous experience with built heritage in similar circumstances.
- Construction within the 50 m bufferzone should be monitored to ensure that PPV levels are not exceeded. All construction activities should cease, should levels be exceeded.

Based on the information contained in the Report, the Ministry is satisfied that the heritage assessment process and reporting are consistent with the applicable heritage assessment requirements established in s. 23 of O. Reg. 359/09. Please note that the Ministry makes no representation or warranty as to the completeness, accuracy or quality of the heritage assessment report (please see Note 1).

This letter does not waive any requirements under the *Ontario Heritage Act*.

This letter does not constitute approval of the renewable energy project. Approvals or licences for the project may be required under other statutes and regulations. Please ensure that you obtain all required approvals and/or licences.

Please ensure that the proponent is aware that, if new information or substantive project changes arise after issuance of this letter, the applicant should discuss them with you to determine if any additional assessment or reporting is required. If additional reporting or revisions are required, they should be submitted to the Ministry for review. Upon completion of that review, the Ministry will determine if any revisions to the content of this letter are required.

Should you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Joseph Muller, RPP/MCIP  
Heritage Planner  
Joseph.Muller@Ontario.ca

cc. Shiloh Berriman, Project Coordinator  
Enercon

Kathleen Hedley, Director  
Environmental Approvals Branch, Ministry of the Environment and Climate Change (MoECC)

Sarah Paul, Director  
Environmental Approvals Access and Service Integration Branch, MoECC

James Hamilton, Manager  
Culture Services Unit, Ministry of Tourism, Culture and Sport

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Note 1: In no way will the Ministry be liable for any harm, damages, costs, expenses, losses, claims or actions that may result: (a) if the Report or its recommendations are discovered to be inaccurate, incomplete, misleading or fraudulent; or (b) from the issuance of this letter. Further measures may need to be taken in the event that additional heritage resources are identified or the Report is otherwise found to be inaccurate, incomplete, misleading or fraudulent.



**Ministry of Tourism, Culture and Sport**

Archaeology Programs Unit  
Programs and Services Branch  
Culture Division  
401 Bay Street, Suite 1700  
Toronto ON M7A 0A7  
Tél.: (416) 314-7123  
Email: meagan.brooks@ontario.ca

**Ministère du Tourisme, de la Culture et du Sport**

Unité des programmes d'archéologie  
Direction des programmes et des services  
Division de culture  
401, rue Bay, bureau 1700  
Toronto ON M7A 0A7  
Tél. : (416) 314-7123  
Email: meagan.brooks@ontario.ca



Apr 20, 2016

Patrick Hoskins (P415)  
Stantec Consulting  
400 - 1331 Clyde Ottawa ON K2C3G4

**RE: Review and Entry into the Ontario Public Register of Archaeological Reports: Archaeological Assessment Report Entitled, "Stage 2 Archaeological Assessment: Modified Alternate Transmission Route, Feddema Lands, Niagara Region Wind Project. Part of Lot 12, Concession 8, Geographic Township of Grimsby, former Lincoln County, Township of West Lincoln, now Regional Municipality of Niagara, Ontario.", Dated Apr 20, 2016, Filed with MTCS Toronto Office on Apr 20, 2016, MTCS Project Information Form Number P415-0077-2016, MTCS File Number 26EA078**

Dear Mr. Hoskins:

This office has reviewed the above-mentioned report, which has been submitted to this ministry as a condition of licensing in accordance with Part VI of the Ontario Heritage Act, R.S.O. 1990, c 0.18.<sup>1</sup> This review has been carried out in order to determine whether the licensed professional consultant archaeologist has met the terms and conditions of their licence, that the licensee assessed the property and documented archaeological resources using a process that accords with the 2011 Standards and Guidelines for Consultant Archaeologists set by the ministry, and that the archaeological fieldwork and report recommendations are consistent with the conservation, protection and preservation of the cultural heritage of Ontario.

The report documents the assessment/mitigation of the study area as depicted in Figure 1, 3 and Tile 1 of the above titled report and recommends the following:

The Stage 2 assessment of the proposed modified alternate transmission route on the Feddema Lands resulted in the identification of two archaeological locations: CL-44 and CL-45 (AgGv-138). CL-44 does not fulfill the criteria for a Stage 3 archaeological investigation as per Section 2.2 of the MTCS' 2011 Standards and Guidelines for Consultant Archaeologists (Government of Ontario 2011b). The cultural heritage value or interest of CL-44 has been sufficiently documented. Therefore, no further archaeological assessment is recommended for CL-44.

CL-45 (AgGv-138) does not fulfill the criteria for a Stage 3 archaeological investigation as per Section 2.2 of the MTCS' 2011 Standards and Guidelines for Consultant Archaeologists (Government of Ontario 2011b). The cultural heritage value or interest of CL-45 (AgGv-138) has been sufficiently documented. Therefore, no further archaeological assessment is recommended for CL-45 (AgGv-138).



The Stage 2 archaeological assessment for the other portions of the study area did not identify any additional archaeological resources (neither artifacts nor sites). Thus, in accordance with Section 2.2 and Section 7.8.3 of the MTCS' 2011 Standards and Guidelines for Consultant Archaeologists (Government of Ontario 2011b), no further archaeological assessment of the study area is required.

However, the remainder of the Feddema Lands to the west has not been subject to Stage 2 archaeological assessment and if the remainder of the property is to be subject to development in the future, then a Stage 2 archaeological assessment is recommended outside of the current study area. Therefore it is recommended that 30 metres of protective fencing be erected on the west and east sides of both CL-44 and CL-45 (AgGv-138) in order to prevent any development impacts. It is also recommended that a licensed archaeological be present during fence installation to monitor the installation process prior to construction.

Based on the information contained in the report, the ministry is satisfied that the fieldwork and reporting for the archaeological assessment are consistent with the ministry's 2011 Standards and Guidelines for Consultant Archaeologists and the terms and conditions for archaeological licences. This report has been entered into the Ontario Public Register of Archaeological Reports. Please note that the ministry makes no representation or warranty as to the completeness, accuracy or quality of reports in the register.

Should you require any further information regarding this matter, please feel free to contact me.

Sincerely,

Meagan Brooks  
Archaeology Review Officer

cc. Archaeology Licensing Officer  
Adam Rosso, FWRN LP  
Mohsen Keyvani, Ministry of the Environment and Climate Change

<sup>1</sup> In no way will the ministry be liable for any harm, damages, costs, expenses, losses, claims or actions that may result: (a) if the Report(s) or its recommendations are discovered to be inaccurate, incomplete, misleading or fraudulent; or (b) from the issuance of this letter. Further measures may need to be taken in the event that additional artifacts or archaeological sites are identified or the Report(s) is otherwise found to be inaccurate, incomplete, misleading or fraudulent.



April 29, 2016

Adam Rosso  
Director of Development  
Boralex  
174 Mill Street  
Milton, ON L9T 1S2

**RE: NHA Addendum – Proposed Modified Alternate Transmission Route,  
Smithville Area Niagara Region Wind Farm**

Dear Adam Rosso,

The Ministry of Natural Resources and Forestry (MNRF) has received the document dated April 29, 2016 which describes modifications the Smithville Area Niagara Region Wind Farm project made subsequent to MNRF's letter confirming the Natural Heritage Assessment in respect of the project.

In accordance with Appendix D of the MNRF's Natural Heritage Assessment Guide, a commitment has been made to complete pre-construction assessments detailed in the April 3, 2013 confirmation letter. MNRF has reviewed and confirmed the assessment methods and the range of mitigation options. Pending completion of the pre-construction assessments and determination of significance, the appropriate mitigation is expected to be implemented, as committed in the environmental impact study for the following candidate significant wildlife habitats:

- Bat Maternity Colony Habitat (BMC57)
- ESA Special Concern Bird Habitat (SC02)

Upon review of these modifications, MNRF is satisfied that the Natural Heritage Assessment requirements of Ontario Regulation 359/09 have been met. Please add this letter as an addendum to the confirmation letter issued April 3, 2013, along with subsequent confirmation letters, for the Smithville Area Niagara Region Wind Farm project.

If you wish to discuss, please contact Jim Beal, Renewable Energy Coordinator,  
at [jim.beal@ontario.ca](mailto:jim.beal@ontario.ca) or at 705-755-1362.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Milian'.

Kazia Milian  
Supervisor, Land Use Planning Unit  
Southern Region Resources Section  
Ministry of Natural Resources and Forestry

Cc Jim Beal, Renewable Energy Coordinator  
Nicole Kopysh, Stantec Consulting LTD, [nicole.koysh@stantec.com](mailto:nicole.koysh@stantec.com)

**SCHEDULE “J”**

**(Please see attached)**



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**AMENDMENT TO RENEWABLE ENERGY APPROVAL**NUMBER 4353-9HMP2R  
Issue Date: May 6, 2016

1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP  
4672 Bartlett Road South  
Beamsville, Ontario  
L0R 1B1

Site Location: Niagara Region Wind Farm  
Canborough Rd Lot 12, Concession 1 and Parts 1 and 2 of Reference Plan R10082  
Township of West Lincoln, Regional Municipality of Niagara  
L0R 2J0

*You are hereby notified that I have amended Approval No. 4353-9HMP2R issued on November 6, 2014 for a Class 4 wind facility , as follows:*

**A. The definition of "Application" in the Approval is deleted and replaced with the following:**

11. "Application" means the application for a Renewable Energy Approval dated April 2, 2013 and signed by Darren Croghan, Vice President, Niagara Region Wind Corporation and all supporting documentation submitted with the application, including amended documentation submitted up to November 6, 2014; and as further amended by the application for an amendment to a Renewable Energy Approval dated August 25, 2015, and signed by Michael Weidemann, Executive Vice President, 1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP, and all supporting documentation submitted with the application up to September 30, 2015; and as further amended by the application for an amendment to Renewable Energy Approval dated December 4, 2015, and signed by Michael Weidemann, Executive Vice President, 1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP, and all supporting documentation submitted with the application up to February 9, 2016; and as further amended by the application for an amendment to Renewable Energy Approval dated February 11, 2016, and signed by Michael Weidemann, Executive Vice President, 1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP, and all supporting documentation submitted with the application, including amended documentation submitted up to May 5, 2016;

**B. Condition L1 of the Approval is deleted and replaced with the following:**

L1. The Company shall implement the Environmental Effects Monitoring Plan for the Niagara Region Wind Farm, titled *Niagara Region Wind Farm Environmental Effects Monitoring Plan for Wildlife and Wildlife Habitat*, dated August 2013, and the commitments made in the following reports and included in the Application, and which the Company submitted to the Ministry of Natural Resources and Forestry in order to comply with O. Reg. 359/09:

- *Niagara Region Wind Farm Natural Heritage Assessment and Environmental Impact Study*, dated March 26, 2013 and prepared by Stantec Consulting Ltd.
- *Niagara Region Wind Farm NHA/EIS Addendum to Address the Winger Provincially Significant Earth Science ANSI*, dated April 8, 2013 and prepared by Stantec Consulting Ltd.
- *Niagara Region Wind Farm NHA/EIS Addendum for Relocating Turbines T18, T32 and T35*, dated June 20, 2013 and prepared by Stantec Consulting Ltd.
- *Pre-Construction Monitoring Report Niagara Region Wind Farm*, dated July 23, 2014 and prepared by Stantec Consulting Ltd.
- *NHA Addendum - Proposed Modified Alternate Transmission Route, Smithville Area Niagara Region Wind Farm*, dated April 29, 2016 and prepared by Stantec Consulting Ltd.

**C. Condition L17 is added to the Approval:**

**PRE-CONSTRUCTION SURVEYS**

L17. The Company shall implement the pre-construction monitoring described in the *NHA Addendum - Proposed Modified Alternate Transmission Route, Smithville Area Niagara Region Wind Farm*, described in Condition L1, including the following:

- (1) Breeding Bird Surveys (SC02), targeting Wood Thrush, Eastern Wood-Pee-wee, White-eyed Vireo, Louisiana Waterthrush, Hooded Warbler, Canada Warbler and Red-headed Woodpecker; and
- (2) Bat Maternity Roost Colony Surveys (bmc57).

**All other Terms and Conditions of the Approval remain the same.**

**This Notice shall constitute part of the approval issued under Approval No. 4353-9HMP2R dated November 6, 2014.**

*In accordance with Section 139 of the Environmental Protection Act, within 15 days after the service of this notice, you may by further written notice served upon the Director, the Environmental Review Tribunal and the Environmental Commissioner, require a hearing by the Tribunal.*

*In accordance with Section 47 of the Environmental Bill of Rights, 1993, the Environmental Commissioner will place notice of your request for a hearing on the Environmental Registry.*

*Section 142 of the Environmental Protection Act provides that the notice requiring the hearing shall state:*

1. The portions of the renewable energy approval or each term or condition in the renewable energy approval in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

*The signed and dated notice requiring the hearing should also include:*

3. The name of the appellant;
4. The address of the appellant;
5. The renewable energy approval number;
6. The date of the renewable energy approval;
7. The name of the Director;
8. The municipality or municipalities within which the project is to be engaged in;

*This notice must be served upon:*

The Secretary\*  
Environmental Review Tribunal  
655 Bay Street, 15th Floor  
Toronto, Ontario  
M5G 1E5

AND

The Environmental Commissioner  
1075 Bay Street, 6th Floor  
Suite 605  
Toronto, Ontario  
M5S 2B1

AND

The Director  
Section 47.5, *Environmental Protection Act*  
Ministry of the Environment and Climate  
Change  
135 St. Clair Avenue West, 1st Floor  
Toronto, Ontario  
M4V 1P5

**\* Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal at: Tel: (416) 212-6349, Fax: (416) 326-5370 or [www.ert.gov.on.ca](http://www.ert.gov.on.ca)**

*Under Section 142.1 of the Environmental Protection Act, residents of Ontario may require a hearing by the Environmental Review Tribunal within 15 days after the day on which notice of this decision is published in the Environmental Registry. By accessing the Environmental Registry at [www.ebr.gov.on.ca](http://www.ebr.gov.on.ca), you can determine when this period ends.*

*Approval for the above noted renewable energy project is issued to you under Section 47.5 of the Environmental Protection Act subject to the terms and conditions outlined above.*

DATED AT TORONTO this 6th day of May, 2016



Mohsen Keyvani, P.Eng.  
Director  
Section 47.5, *Environmental Protection Act*

SR/

c: District Manager, MOECC Niagara  
Bryan Tripp, Stantec Consulting Ltd.

**SCHEDULE "K"**

**(Please see attached)**

# **COMMUNITY & STAKEHOLDER NOTIFICATION SUMMARY**

## **NIAGARA REGION WIND FARM – RENEWABLE ENERGY APPROVAL AMENDMENT**

**Modification Report #2, May 2016**

June 13, 2016



# **COMMUNITY & STAKEHOLDER NOTIFICATION PLAN**

## **NIAGARA REGION WIND FARM - RENEWABLE ENERGY APPROVAL AMENDMENT**

### **MODIFICATION REPORT #2**

Stantec Consulting Ltd. (Stantec) has prepared this Community and Stakeholder Notification Summary outlining the approach and general methods of engagement that were employed for the amendment notification process.

## **1.0 BACKGROUND INFORMATION AND INTRODUCTION**

FWRN LP (the Proponent or FWRN) is developing the Niagara Region Wind Farm (the Project), a 230 MW wind energy project within the Townships of West Lincoln and Wainfleet and the Town of Lincoln within the Niagara Region and within Haldimand County in southern Ontario.

The Project's Renewable Energy Approval (REA) was issued under Ontario Regulation 359/09 of the *Environmental Protection Act*. The REA was issued on November 6, 2014 (EBR #012-0613). Since receipt of the REA and completion of the Environmental Review Tribunal, FWRN has identified the need to make minor amendments (modifications) to the Project as it was described in the REA Application documents and subsequently approved by the Ministry of the Environment and Climate Change (MOECC).

The Niagara Region Wind Farm Renewable Energy Approval Amendment Modification Report #2, dated May 2016, was prepared to address the requirements of Chapter 10 "Making Changes to REA Projects" of the Technical Guide. A Notice of a Proposed Change to A Renewable Energy Project was also prepared and was distributed in accordance with subsection 16.0.1 3(1) of O. Reg. 359/09.

## **2.0 ENGAGEMENT ACTIVITIES**

FWRN provided notification on May 3 and 4, 2016 to stakeholders included on the Project distribution list regarding the proposed modification and application to the MOECC for an amendment to the Project's REA. A Notice of Proposed Change to a Renewable Energy Project was distributed, and provided an overview of the proposed change, notification that a Modification Report to amend the Project's REA has been submitted to the MOECC for review, and information regarding availability of the Modification Report on the Project website.

The Notice and Modification Report were posted on the Project website on May 4, 2016, to ensure the community was adequately informed of the proposed change. The Notice was mailed May 3, 2016 and emailed May 4, 2016 to all Project stakeholders, including agencies, municipalities, Aboriginal communities, and community members that are on the Project distribution list. The Notice was also published on two separate days within newspapers with general circulation in the Project area as outlined in Section 2.4.

**COMMUNITY & STAKEHOLDER NOTIFICATION PLAN  
NIAGARA REGION WIND FARM - RENEWABLE ENERGY APPROVAL AMENDMENT  
MODIFICATION REPORT #2**

## **2.1 MUNICIPAL NOTIFICATION**

A CD copy of the Modification Report and a hard copy of the Notice were couriered on May 3, 2016 to the following municipalities:

- Township of West Lincoln;
- Township of Wainfleet;
- Township of Pelham;
- Town of Grimsby;
- Town of Lincoln;
- Niagara Region; and
- Haldimand County.

## **2.2 ABORIGINAL COMMUNITY NOTIFICATION**

A CD copy of the Modification Report and a hard copy of the Notice were couriered on May 3, 2016 to the following Aboriginal communities:

- Six Nations of the Grand River;
- Six Nations of the Grand River Haudenosaunee Confederacy Chiefs Council (via HDI);
- Mississaugas of the New Credit First Nation; and
- Metis Nation of Ontario/Niagara Region Metis Council.

## **2.3 MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE (MOECC) NOTIFICATION**

A hard copy and/or CD copy of the Modification Report and a hard copy of the Notice were couriered on May 3, 2016 to the following MOECC offices:

- Environmental Approvals Branch – Ms. Sarah Raetsen, Senior Project Evaluator (CD and hard copy);
- Hamilton District Office – Mr. Geoff Knapper, District Manager (CD copy); and
- Niagara District Office – Ms. Kim Groombridge, District Manager (CD and hard copy).

**COMMUNITY & STAKEHOLDER NOTIFICATION PLAN  
NIAGARA REGION WIND FARM - RENEWABLE ENERGY APPROVAL AMENDMENT  
MODIFICATION REPORT #2**

## **2.4 NEWSPAPER PUBLICATION**

The Notice was published in the following newspapers on the dates specified:

- Voice of Pelham – May 4, 2016 & May 11, 2016
- Turtle Island News – May 4, 2016 & May 11, 2016
- The Sachem – May 5, 2016 & May 12, 2016
- Welland Tribune – May 5, 2016 & May 12, 2016
- NewsNow – May 5, 2016 & May 12, 2016
- St. Catharines Standard – May 5, 2016 & May 12, 2016
- Pelham News – May 5, 2016 & May 12, 2016
- In Port News – May 5, 2016 & May 12, 2016
- Haldimand Press – May 5, 2016 & May 12, 2016
- Niagara This Week (Grimsby Lincoln News, Port Colborne Leader, Welland/Pelham, St. Catharines/ Thorold) – May 5, 2016 & May 12, 2016

**SCHEDULE “L”**

**(Please see attached)**

# NOTICE OF A PROPOSED CHANGE TO A RENEWABLE ENERGY PROJECT

**Project Name:** Niagara Region Wind Farm

**Renewable Energy Approval:** 4353-9HMP2R

**IESO Reference Number:** F-001580-WIN-130-601

**Project Location:** The Niagara Region Wind Farm (the "Project") is located within Haldimand County and Niagara Region (including the Townships of Wainfleet and West Lincoln and the Town of Lincoln). The electrical interconnection components are located within the Town of Lincoln and the Township of West Lincoln, in Niagara Region, and in Haldimand County in southern Ontario.

**Dated At:** Haldimand County and Niagara Region on this 4th day of May, 2016.

Niagara Region Wind Corporation ("NRWC") was issued a Renewable Energy Approval (REA) on November 6, 2014 in respect of the Niagara Region Wind Farm project (the "project"). Information with respect to the decision on this project can be viewed on the Environmental Registry by searching EBR #012-0613. An amendment to the existing approval for an administrative change to the Project was issued by the Ministry of the Environment and Climate Change (MOECC) on November 23, 2015; to acknowledge the change in ownership of the Project from 'Niagara Region Wind Corporation' to 'FWRN LP', as FWRN LP has purchased the Project (EBR #012-5532). A second amendment to the existing approvals for project design changes and technical changes is with MOECC under technical review.

FWRN LP is proposing to make changes to the project and the project itself is subject to the provisions of the Environmental Protection Act of Ontario (Act) Part V.0.1 and Ontario Regulation 359/09 (Regulation). In accordance with Section 16.0.1 of the Regulation this notice is being distributed to make the public aware of proposed changes to the project.

## Project Description and Proposed Change

Pursuant to the Act and Regulation, the facility, in respect of which the REA was issued, is considered to be a Class 4 Wind Facility. An application has been made to the MOECC to change the project and alter the terms and conditions of the existing REA. The proposed change consists of a project design change to the REA Application and includes adding a new modified alternate transmission line route around the Town of Smithville to avoid areas proposed for future urban expansion.

## Documents for Public Inspection

FWRN LP has developed a Modification Document which summarizes the proposed change. A written copy of the Modification Document is currently available for public inspection on the project website (<http://www.nrwf.ca/projectdocuments/>). Copies of the final REA documents also remain available on the project website.

## Project Contacts and Information:

To learn more about the project, or to communicate questions or comments, please contact:

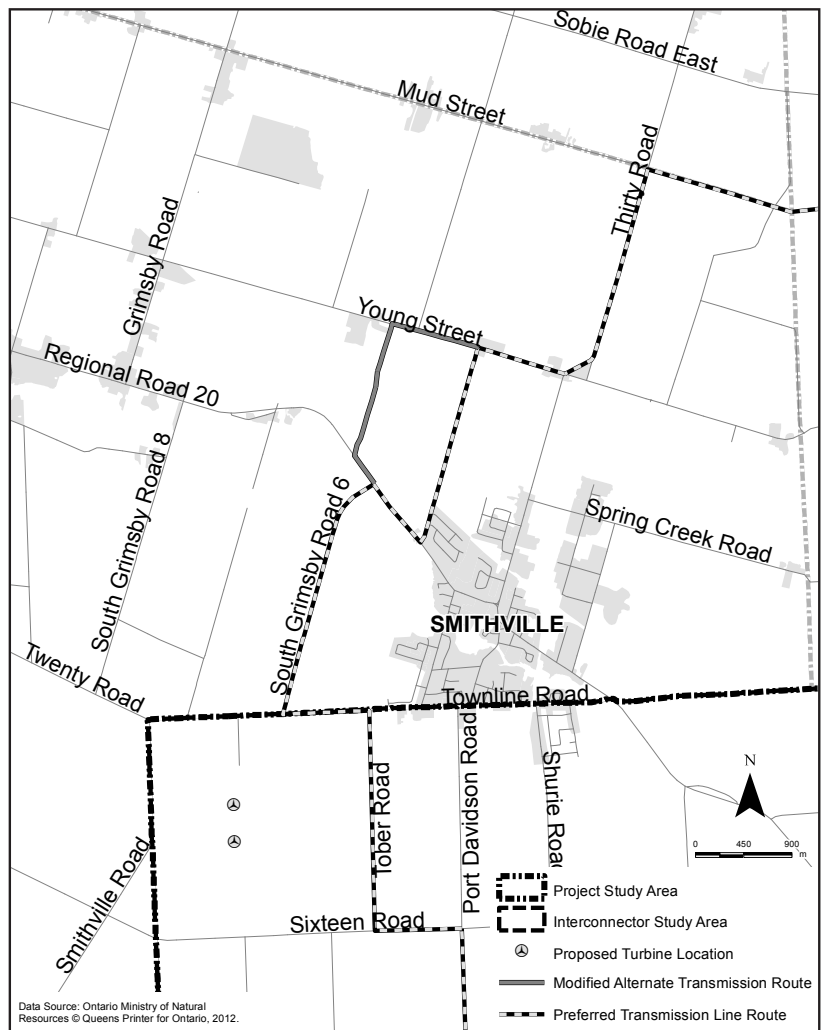
Project Email Address: [info@nrwf.ca](mailto:info@nrwf.ca)

Project Website: [www.nrwf.ca](http://www.nrwf.ca)

Project Phone Number: 819-363-6491 or 1-844-363-6491 (toll free)

Shiloh Berriman, Project Coordinator  
FWRN LP  
4672 Bartlett Road South  
Beamsville, ON L0R 1B1

J.A. (Al) Leggett, BA, MCIP, RPP, Project Manager  
Stantec Consulting Ltd.  
300 - 675 Cochrane Drive West Tower  
Markham, ON L3R 0B8



Information will be collected and used in accordance with the Environmental Protection Act and Freedom of Information and Protection of Privacy Act. This information will be used to assist FWRN LP in meeting applicable environmental approvals requirements. This material will be maintained on file for use during the project and may be included in project documentation. Unless indicated otherwise, personal information and all comments will become part of the public record and publicly released as part of project documentation.



**SCHEDULE "M"**

**(Please see attached)**

# **COMMUNITY & STAKEHOLDER NOTIFICATION PLAN**

## **NIAGARA REGION WIND FARM – RENEWABLE ENERGY APPROVAL AMENDMENT**

**Modification Report #3, April 2016**

June 13, 2016

# **COMMUNITY & STAKEHOLDER NOTIFICATION PLAN**

## **NIAGARA REGION WIND FARM - RENEWABLE ENERGY APPROVAL AMENDMENT**

### **MODIFICATION REPORT #3**

Stantec Consulting Ltd. (Stantec) has prepared this Community and Stakeholder Notification Plan outlining the approach and general methods of engagement that were employed for the amendment notification process.

## **1.0 BACKGROUND INFORMATION AND INTRODUCTION**

FWRN LP (the Proponent or FWRN) is developing the Niagara Region Wind Farm (the Project), a 230 MW wind energy project within the Townships of West Lincoln and Wainfleet and the Town of Lincoln within the Niagara Region and within Haldimand County in southern Ontario.

The Project's Renewable Energy Approval (REA) was issued under Ontario Regulation 359/09 of the *Environmental Protection Act*. The REA was issued on November 6, 2014 (EBR #012-0613). Since receipt of the REA and completion of the Environmental Review Tribunal, FWRN has identified the need to make minor amendments (modifications) to the Project as it was described in the REA Application documents and subsequently approved by the Ministry of the Environment and Climate Change (MOECC).

The Niagara Region Wind Farm Renewable Energy Approval Amendment Modification Report #3 was prepared to address the requirements of Chapter 10 "Making Changes to REA Projects" of the Technical Guide. A Notice of a Proposed Change to A Renewable Energy Project was also prepared and was distributed in accordance with subsection 16.0.1 3(1) of O. Reg. 359/09.

## **2.0 ENGAGEMENT ACTIVITIES**

FWRN provided notification on April 5 and 6, 2016 to stakeholders included on the Project distribution list regarding the proposed modification and application to the MOECC for an amendment to the Project's REA. A Notice of Proposed Change to a Renewable Energy Project was distributed, and provided an overview of the proposed change, notification that a Modification Report to amend the Project's REA has been submitted to the MOECC for review, and information regarding availability of the Modification Report on the Project website.

The Notice and Modification Report were posted on the Project website on April 7, 2016, to ensure the community was adequately informed of the proposed change. The Notice was mailed April 5, 2016 and emailed April 6, 2016 to all Project stakeholders, including agencies, municipalities, Aboriginal communities, and community members that are on the Project distribution list. The Notice was also published on two separate days within newspapers with general circulation in the Project area as outlined in Section 2.4.

**COMMUNITY & STAKEHOLDER NOTIFICATION PLAN  
NIAGARA REGION WIND FARM - RENEWABLE ENERGY APPROVAL AMENDMENT  
MODIFICATION REPORT #3**

## **2.1 MUNICIPAL NOTIFICATION**

A CD copy of the Modification Report and a hard copy of the Notice were couriered on April 5, 2016 to the following municipalities:

- Township of West Lincoln;
- Township of Wainfleet;
- Township of Pelham;
- Town of Grimsby;
- Town of Lincoln;
- Niagara Region; and
- Haldimand County.

## **2.2 ABORIGINAL COMMUNITY NOTIFICATION**

A CD copy of the Modification Report and a hard copy of the Notice was couriered on April 5, 2016 to the following Aboriginal communities:

- Six Nations of the Grand River;
- Six Nations of the Grand River Haudenosaunee Confederacy Chiefs Council (via HDI);
- Mississaugas of the New Credit First Nation; and
- Metis Nation of Ontario/Niagara Region Metis Council.

## **2.3 MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE (MOECC) NOTIFICATION**

A CD copy of the Modification Report and a hard copy of the Notice were couriered on April 5, 2016 to the following district MOECC offices:

- Hamilton District Office – Mr. Geoff Knapper, District Manager; and,
- Niagara District Office – Ms. Kim Groombridge, District Manager.

The final Modification Report was couriered on May 4, 2016 to the following MOECC offices:

- Environmental Approvals Branch – Ms. Sarah Raetsen, Senior Project Evaluator (CD and hard copy);
- Hamilton District Office – Mr. Geoff Knapper, District Manager (CD copy); and
- Niagara District Office – Ms. Kim Groombridge, District Manager (CD and hard copy).

**COMMUNITY & STAKEHOLDER NOTIFICATION PLAN  
NIAGARA REGION WIND FARM - RENEWABLE ENERGY APPROVAL AMENDMENT  
MODIFICATION REPORT #3**

## **2.4 NEWSPAPER PUBLICATION**

The Notice was published in the following newspapers on the dates specified:

- Voice of Pelham – April 6, 2016 & April 13, 2016
- Turtle Island News – April 6, 2016 & April 13, 2016
- The Sachem – April 7, 2016 & April 14, 2016
- Welland Tribune – April 7, 2016 & April 14, 2016
- NewsNow – April 7, 2016 & April 14, 2016
- St. Catharines Standard – April 7, 2016 & April 14, 2016
- Pelham News – April 7, 2016 & April 14, 2016
- In Port News – April 7, 2016 & April 14, 2016
- Haldimand Press – April 7, 2016 & April 14, 2016
- Niagara This Week (Grimsby Lincoln News, Port Colborne Leader, Welland/Pelham, St. Catharines/ Thorold) – April 7, 2016 & April 14, 2016



**SCHEDULE "N"**

**(Please see attached)**

# NOTICE OF A PROPOSED CHANGE TO A RENEWABLE ENERGY PROJECT

**Project Name:** Niagara Region Wind Farm

**Renewable Energy Approval:** 4353-9HMP2R

**IESO Reference Number:** F-001580-WIN-130-601

**Project Location:** The Niagara Region Wind Farm (the "Project") is located within Haldimand County and Niagara Region (including the Townships of Wainfleet and West Lincoln and the Town of Lincoln). The electrical interconnection components are located within the Town of Lincoln and the Township of West Lincoln, in Niagara Region, and in Haldimand County in southern Ontario.

**Dated At:** Haldimand County and Niagara Region on this 6th day of April, 2016.

Niagara Region Wind Corporation ("NRWC") was issued a Renewable Energy Approval (REA) on November 6, 2014 in respect of the Niagara Region Wind Farm project (the "project"). Information with respect to the decision on this project can be viewed on the Environmental Registry by searching EBR #012-0613. An amendment to the existing approval for an administrative change to the Project was issued by the Ministry of the Environment and Climate Change (MOECC) on November 23, 2015; to acknowledge the change in ownership of the Project from 'Niagara Region Wind Corporation' to 'FWRN LP', as FWRN LP has purchased the Project (EBR #012-5532).

FWRN LP is proposing to make changes to the project and the project itself is subject to the provisions of the Environmental Protection Act of Ontario (Act) Part V.0.1 and Ontario Regulation 359/09 (Regulation). In accordance with Section 16.0.1 of the Regulation this notice is being distributed to make the public aware of proposed changes to the project.

## Project Description and Proposed Change

Pursuant to the Act and Regulation, the facility, in respect of which the REA was issued, is considered to be a Class 4 Wind Facility. An application has been made to the MOECC to change the project and alter the terms and conditions of the existing REA. The proposed change consists of project design changes to the REA Application and includes:

1. Meteorological (MET) Towers: the installation of three (3) new MET towers to monitor wind speed, wind direction, and other atmospheric parameters, in order to satisfy Independent Electricity System Operator telemetry and forecasting requirements; and,
2. Transmission Line: the addition of an alternate transmission route to avoid pole placement along the Hwy 3 Ministry of Transportation (MTO) right of way to address recent comments received from the MTO.

## Documents for Public Inspection

FWRN LP has developed a Modification Document which summarizes the proposed change. A written copy of the Modification Document is currently available for public inspection on the project website (<http://www.nrwf.ca/projectdocuments/>). Copies of the final REA documents also remain available on the project website.

## Project Contacts and Information:

To learn more about the project, or to communicate questions or comments, please contact:

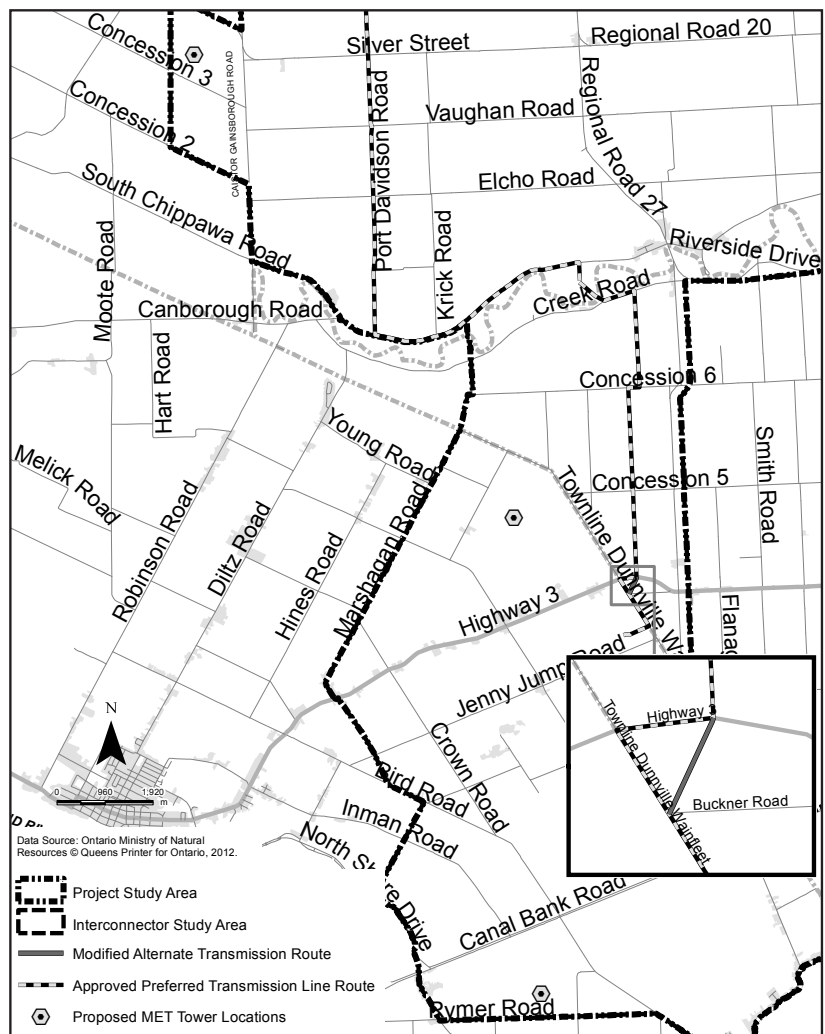
Project Email Address: [info@nrwf.ca](mailto:info@nrwf.ca)

Project Website: [www.nrwf.ca](http://www.nrwf.ca)

Project Phone Number: 819-363-6491 or 1-844-363-6491 (toll free)

Shiloh Berriman, Project Coordinator  
FWRN LP  
4672 Bartlett Road South  
Beamsville, ON L0R 1B1

J.A. (Al) Leggett, BA, MCIP, RPP, Project Manager  
Stantec Consulting Ltd.  
300 - 675 Cochrane Drive West Tower  
Markham, ON L3R 0B8



Information will be collected and used in accordance with the Environmental Protection Act and Freedom of Information and Protection of Privacy Act. This information will be used to assist FWRN LP in meeting applicable environmental approvals requirements. This material will be maintained on file for use during the project and may be included in project documentation. Unless indicated otherwise, personal information and all comments will become part of the public record and publicly released as part of project documentation.

**SCHEDULE "O"**

**(Please see attached)**

**Ministry of Tourism, Culture  
and Sport**

Culture Services Unit  
Programs and Services Branch  
Culture Division  
401 Bay Street, Suite 1700  
Toronto ON M7A 0A7  
Tel: 416 314-7145  
Fax: 416 212-1802

**Ministère du Tourisme, de la Culture  
et du Sport**

Unité des services culturels  
Direction des programmes et des services  
Division de culture  
401, rue Bay, bureau 1700  
Toronto ON M7A 0A7  
Tél: 416 314-7145  
Télé: 416 212-1802



January 5, 2016

Meaghan Rivard  
Stantec Consulting Ltd.  
49 Frederick Street  
Kitchener, ON N2H 6M7  
E: Meaghan.Rivard@stantec.com

<b>Project:</b>	<b>Niagara Region Wind Farm</b>
<b>Feed-in Tariff Number:</b>	<b>FIT-FLKZ509</b>
<b>Report Title:</b>	<b>Proposed Installation of Metrological Evaluation Towers Niagara Region Wind, Heritage Assessment Review (amendment)</b>
<b>Applicant:</b>	<b>Niagara Region Wind Corporation</b>
<b>Location:</b>	<b>Townships of West Lincoln and Wainfleet and Town of Lincoln in the Regional Municipality of Niagara, and portions of Haldimand Country.</b>
<b>MTCS File No.:</b>	<b>00EA080</b>

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Dear Meaghan Rivard:

This office has reviewed the above-mentioned report (the "Report"), which has been submitted to this ministry as required under O. Reg. 359/09, as amended (Renewable Energy Approvals under the *Environmental Protection Act*) (the "REA regulation"). This letter constitutes the Ministry of Tourism, Culture and Sport (the "Ministry") comments for the purposes of section 23(3)(a) of the REA regulation regarding the heritage assessment undertaken for the above project.

The Report recommends the following:

### **3. Recommendations**

No impacts resulting from the proposed Met Towers were identified. Based on these findings, it was determined that the analysis, assessment, and recommendations of the HAR (Stantec, 2013) pertaining to the heritage resource at 214 Gore A Road remain unchanged as a result of the proposed project modifications.

Based on the information contained in the Report, the Ministry is satisfied that the heritage assessment process and reporting are consistent with the applicable heritage assessment requirements established in s. 23 of O. Reg. 359/09. Please note that the Ministry makes no representation or warranty as to the completeness, accuracy or quality of the heritage assessment report (please see Note 1).

This letter does not waive any requirements under the *Ontario Heritage Act*.

This letter does not constitute approval of the renewable energy project. Approvals or licences for the project may be required under other statutes and regulations. Please ensure that you obtain all required approvals and/or licences.

Please ensure that the proponent is aware that, if new information or substantive project changes arise after issuance of this letter, the applicant should discuss them with you to determine if any additional assessment or reporting is required. If additional reporting or revisions are required, they should be submitted to the Ministry for review. Upon completion of that review, the Ministry will determine if any revisions to the content of this letter are required.

Should you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Joseph Muller, RPP/MCIP  
Heritage Planner  
Joseph.Muller@Ontario.ca

cc. Shiloh Berriman, Project Coordinator  
Enercon

Kathleen Hedley, Director  
Environmental Approvals Branch, Ministry of the Environment and Climate Change (MoECC)

Sarah Paul, Director  
Environmental Approvals Access and Service Integration Branch, MoECC

James Hamilton, Manager  
Culture Services Unit, Ministry of Tourism, Culture and Sport

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Note 1: In no way will the Ministry be liable for any harm, damages, costs, expenses, losses, claims or actions that may result: (a) if the Report or its recommendations are discovered to be inaccurate, incomplete, misleading or fraudulent; or (b) from the issuance of this letter. Further measures may need to be taken in the event that additional heritage resources are identified or the Report is otherwise found to be inaccurate, incomplete, misleading or fraudulent.





**Ministry of Tourism, Culture and Sport**

Archaeology Programs Unit  
Programs and Services Branch  
Culture Division  
401 Bay Street, Suite 1700  
Toronto ON M7A 0A7  
Tel.: (416) 314-7123  
Email: meagan.brooks@ontario.ca

**Ministère du Tourisme, de la Culture et du Sport**

Unité des programmes d'archéologie  
Direction des programmes et des services  
Division de culture  
401, rue Bay, bureau 1700  
Toronto ON M7A 0A7  
Tél. : (416) 314-7123  
Email: meagan.brooks@ontario.ca



Mar 16, 2016

Jim Wilson (P001)  
Stantec Consulting  
400 - 1331 Clyde Ottawa ON K2C 3G4

**RE: Review and Entry into the Ontario Public Register of Archaeological Reports: Archaeological Assessment Report Entitled, "Stage 2 Archaeological Assessment: MET Towers and Modified Alternate Transmission Route Segment, Niagara Region Wind Project", Dated Mar 2, 2016, Filed with MTCS Toronto Office on Mar 15, 2016, MTCS Project Information Form Number P001-0878-2015, P001-0884-2016, MTCS File Number 26EA078**

Dear Mr. Wilson:

This office has reviewed the above-mentioned report, which has been submitted to this ministry as a condition of licensing in accordance with Part VI of the Ontario Heritage Act, R.S.O. 1990, c 0.18.<sup>1</sup> This review has been carried out in order to determine whether the licensed professional consultant archaeologist has met the terms and conditions of their licence, that the licensee assessed the property and documented archaeological resources using a process that accords with the 2011 Standards and Guidelines for Consultant Archaeologists set by the ministry, and that the archaeological fieldwork and report recommendations are consistent with the conservation, protection and preservation of the cultural heritage of Ontario.

The report documents the assessment/mitigation of the study area as depicted in Figure 1, Figure 6-9 and Supplementary Tile 1 of the above titled report and recommends the following:

Location 1 does not fulfill the criteria for a Stage 3 archaeological investigation as per Section 2.2 of the MTCS' 2011 Standards and Guidelines for Consultant Archaeologists (Government of Ontario 2011b). The cultural heritage value or interest of Location 1 has been sufficiently documented. Therefore, no further archaeological assessment is recommended for Location 1.

The Stage 2 archaeological assessment for the other portions of the study area did not identify any additional archaeological resources (neither artifacts nor sites). Thus, in accordance with Section 2.2 and Section 7.8.3 of the MTCS' 2011 Standards and Guidelines for Consultant Archaeologists (Government of Ontario 2011b), no further archaeological assessment of the study area is required.

Based on the information contained in the report, the ministry is satisfied that the fieldwork and reporting for the archaeological assessment are consistent with the ministry's 2011 Standards and Guidelines for Consultant Archaeologists and the terms and conditions for archaeological licences. This report has been

entered into the Ontario Public Register of Archaeological Reports. Please note that the ministry makes no representation or warranty as to the completeness, accuracy or quality of reports in the register.

Should you require any further information regarding this matter, please feel free to contact me.

Sincerely,

Meagan Brooks  
Archaeology Review Officer

cc. Archaeology Licensing Officer  
Adam Rosso, FWRN LP  
Mohsen Keyvani, MOECC, Environmental Approvals Branch

<sup>1</sup>In no way will the ministry be liable for any harm, damages, costs, expenses, losses, claims or actions that may result: (a) if the Report(s) or its recommendations are discovered to be inaccurate, incomplete, misleading or fraudulent; or (b) from the issuance of this letter. Further measures may need to be taken in the event that additional artifacts or archaeological sites are identified or the Report(s) is otherwise found to be inaccurate, incomplete, misleading or fraudulent.



**Ministry of Tourism, Culture and Sport**

Heritage Program Unit  
Programs and Services Branch  
Culture Division  
401 Bay Street, Suite 1700  
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Tel: 416 314-7145  
Fax: 416 212-1802

**Ministère du Tourisme, de la Culture et du Sport**

Unité des programmes patrimoine  
Direction des programmes et des services  
Division de culture  
401, rue Bay, bureau 1700  
Toronto ON M7A 0A7  
Tél: 416 314-7145  
Télé: 416 212-1802



April 5, 2016

Meaghan Rivard  
Stantec Consulting Limited  
49 Frederick Street  
Kitchener, ON N2H 6M7  
E: Meaghan.Rivard@stantec.com

<b>Project:</b>	<b>Niagara Region Wind Farm</b>
<b>Feed-in Tariff Number:</b>	<b>FIT-FLKZ509</b>
<b>Report Title:</b>	<b>Buckner Transmission Line Route Niagara Region Wind, Heritage Assessment Review (amendment)</b>
<b>Applicant:</b>	<b>Niagara Region Wind Corporation</b>
<b>Location:</b>	<b>Townships of West Lincoln and Wainfleet and Town of Lincoln in the Regional Municipality of Niagara, and portions of Haldimand Country.</b>
<b>MTCS File No.:</b>	<b>00EA080</b>

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Dear Meaghan Rivard:

This office has reviewed the above-mentioned report (the "Report"), which has been submitted to this ministry as required under O. Reg. 359/09, as amended (Renewable Energy Approvals under the *Environmental Protection Act*) (the "REA regulation"). This letter constitutes the Ministry of Tourism, Culture and Sport (the "Ministry") comments for the purposes of section 23(3)(a) of the REA regulation regarding the heritage assessment undertaken for the above project.

The Report recommends the following:

**Recommendations**

It was determined that there were no heritage resources positioned within, or adjacent to, the property where modifications are proposed. Based on these findings, it was determined that the analysis, assessment, and recommendations of the HAR (Stantec, 2013) remain unchanged as a result of the proposed project modifications.

Based on the information contained in the Report, the Ministry is satisfied that the heritage assessment process and reporting are consistent with the applicable heritage assessment requirements established in s. 23 of O. Reg. 359/09. Please note that the Ministry makes no representation or warranty as to the completeness, accuracy or quality of the heritage assessment report (please see Note 1).

This letter does not waive any requirements under the *Ontario Heritage Act*.

This letter does not constitute approval of the renewable energy project. Approvals or licences for the project may be required under other statutes and regulations. Please ensure that you obtain all required approvals and/or licences.

Please ensure that the proponent is aware that, if new information or substantive project changes arise after issuance of this letter, the applicant should discuss them with you to determine if any additional assessment or reporting is required. If additional reporting or revisions are required, they should be submitted to the Ministry for review. Upon completion of that review, the Ministry will determine if any revisions to the content of this letter are required.

Should you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Joseph Muller, RPP/MCIP  
Heritage Planner  
Joseph.Muller@Ontario.ca

cc. Shiloh Berriman, Project Coordinator  
Enercon

Kathleen Hedley, Director  
Environmental Approvals Branch, Ministry of the Environment and Climate Change (MoECC)

Sarah Paul, Director  
Environmental Approvals Access and Service Integration Branch, MoECC

James Hamilton, Manager  
Culture Services Unit, Ministry of Tourism, Culture and Sport

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**From:** Beal, Jim (MNRF) [mailto:jim.beal@ontario.ca]  
**Sent:** Friday, April 29, 2016 1:16 PM  
**To:** Kopysh, Nicole  
**Subject:** RE: MET TOWERS: Niagara Region Wind Farm NHA/EIS Addendum

Hi Nicole

As it relates to this specific amendment request (Buckner Line?)..MET Towers and alternate transmission line addendum (#3). This is separate from the Proposed Modified Alternate Transmission Route (Smithsville) addendum that will follow.

**Conclusion:**

The changes described by the consultant are minor changes to the project location components. No new mitigation measures are necessary beyond what was previously identified in Table 5.1 (Appendix B) of the NHA/EIS 2013. Also, the evaluation completed regarding the features present have been adequately mitigated. No additional assessment or mitigation is required at this time.

Thanks.

Jim Beal  
Renewable Energy Coordinator  
Southern Region  
MNRF

705-755-1362

---

**From:** Kopysh, Nicole  
**Sent:** Monday, March 07, 2016 3:03 PM  
**To:** Beal, Jim (MNR) ([jim.beal@ontario.ca](mailto:jim.beal@ontario.ca))  
**Cc:** Tripp, Bryan; Adam Rosso ([adam.rosso@boralex.com](mailto:adam.rosso@boralex.com))  
**Subject:** Niagara Region Wind Farm: NHA/EIS Addendum

Hello Jim,

Please find attached an addendum to the Natural Heritage Assessment and Environmental Impact Study (NHA/EIS) for the Niagara Region Wind Farm (Stantec, 2013).

This addendum includes consideration of the installation of three MET tower(s) and the addition of an alternate transmission line route across a new participating property within the Project Study Area.

All proposed modifications are sited within agricultural fields, within areas that were previously assessed in the NHA/EIS, however small portions of the revised Zone Of Investigation (ZOI) extend beyond that originally identified in the NHA/EIS.

No new natural features occurred within the Project Location or the ZOI as a result of the modifications. The natural features that are located in the modified project location and/or ZOI were all evaluated previously and appropriate mitigation measures were recommended in the EIS (Stantec 2013). No changes to the Evaluation of Significance report or Environmental Impact Study as presented in the NHA/EIS are required.

Please note that given the ongoing construction activities and schedule for the Project, we are hoping to finalize this Addendum as soon as possible. As a result, the REA amendment will be submitted this week to MOECC (including the NHA Addendum).

Please let me know if you have any questions, I look forward to hearing from you.

Nicole

**Nicole Kopysh**

Project Manager/ Regional Technical Leader (Central Canada), Terrestrial Ecosystems- Wildlife  
Stantec  
70 Southgate Drive, Suite 1 Guelph ON N1G 4P5  
Direct phone: 519-780-8163  
Reception: (519) 836-6050  
Cell: (519) 820-2318  
Fax: (519) 836-2493



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Please consider the environment before printing this email.

**SCHEDULE "P"**

**(Please see attached)**

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**AMENDMENT TO RENEWABLE ENERGY APPROVAL**NUMBER 4353-9HMP2R  
Issue Date: May 12, 2016

1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP  
4672 Bartlett Road South  
Beamsville, Ontario  
L0R 1B1

Site Location: Niagara Region Wind Farm  
Canborough Rd Lot 12, Concession 1 and Parts 1 and 2 of Reference Plan R10082  
Township of West Lincoln, Regional Municipality of Niagara  
L0R 2J0

*You are hereby notified that I have amended Approval No. 4353-9HMP2R issued on November 6, 2014 for a Class 4 wind facility, as follows:*

- A. The definitions of "Acoustic Assessment Report" and "Application" in the Approval are deleted and replaced with the following:**
1. "Acoustic Assessment Report" means the report included in the Application and entitled *Niagara Region Wind Farm Acoustic Assessment Report – REA Amendment*, dated April 8, 2016 prepared by Stantec Consulting Ltd. and signed by Kana Ganesh, Ph.D., P.Eng. and Keni Mallinen, B.A.Sc.;

11. "Application" means the application for a Renewable Energy Approval dated April 2, 2013 and signed by Darren Croghan, Vice President, Niagara Region Wind Corporation and all supporting documentation submitted with the application, including amended documentation submitted up to November 6, 2014; and as further amended by the application for an amendment to a Renewable Energy Approval dated August 25, 2015, and signed by Michael Weidemann, Executive Vice President, 1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP, and all supporting documentation submitted with the application up to September 30, 2015; and as further amended by the application for an amendment to a Renewable Energy Approval dated December 4, 2015, and signed by Michael Weidemann, Executive Vice President, 1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP, and all supporting documentation submitted with the application, including amended documentation submitted up to February 9, 2016; and as further amended by the application for an amendment to a Renewable Energy Approval dated February 11, 2016, and signed by Michael Weidemann, Executive Vice President, 1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP, and all supporting documentation submitted with the application, including amended documentation submitted up to May 5, 2016; and as further amended by the application for an amendment to a Renewable Energy Approval dated March 8, 2016, and signed by Michael Weidemann, Executive Vice President, 1021702 B.C. Ltd., as general partner for and on behalf of FWRN LP, and all supporting documentation submitted with the application, including amended documentation submitted up to April 29, 2016;

**All other Terms and Conditions of the Approval remain the same.**

**This Notice shall constitute part of the approval issued under Approval No. 4353-9HMP2R dated November 6, 2014.**

*In accordance with Section 139 of the Environmental Protection Act, within 15 days after the service of this notice, you may by further written notice served upon the Director, the Environmental Review Tribunal and the Environmental Commissioner, require a hearing by the Tribunal.*

*In accordance with Section 47 of the Environmental Bill of Rights, 1993, the Environmental Commissioner will place notice of your request for a hearing on the Environmental Registry.*

*Section 142 of the Environmental Protection Act provides that the notice requiring the hearing shall state:*

1. The portions of the renewable energy approval or each term or condition in the renewable energy approval in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

*The signed and dated notice requiring the hearing should also include:*

3. The name of the appellant;
4. The address of the appellant;
5. The renewable energy approval number;
6. The date of the renewable energy approval;
7. The name of the Director;
8. The municipality or municipalities within which the project is to be engaged in;

*This notice must be served upon:*

The Secretary\*  
Environmental Review Tribunal  
655 Bay Street, 15th Floor  
Toronto, Ontario  
M5G 1E5

AND

The Environmental Commissioner  
1075 Bay Street, 6th Floor  
Suite 605  
Toronto, Ontario  
M5S 2B1

AND

The Director  
Section 47.5, *Environmental Protection Act*  
Ministry of the Environment and Climate  
Change  
135 St. Clair Avenue West, 1st Floor  
Toronto, Ontario  
M4V 1P5

**\* Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal at: Tel: (416) 212-6349, Fax: (416) 326-5370 or [www.ert.gov.on.ca](http://www.ert.gov.on.ca)**

*Under Section 142.1 of the Environmental Protection Act, residents of Ontario may require a hearing by the Environmental Review Tribunal within 15 days after the day on which notice of this decision is published in the Environmental Registry. By accessing the Environmental Registry at [www.ebr.gov.on.ca](http://www.ebr.gov.on.ca), you can determine when this period ends.*

*Approval for the above noted renewable energy project is issued to you under Section 47.5 of the Environmental Protection Act subject to the terms and conditions outlined above.*

DATED AT TORONTO this 12th day of May, 2016



---

Mohsen Keyvani, P.Eng.  
Director  
Section 47.5, *Environmental Protection Act*

SR/

c: District Manager, MOECC Niagara  
Bryan Tripp, Stantec Consulting Ltd.



**SCHEDULE "Q"**

**(Please see attached)**

## Apesteguy-Reux, Heloise

---

**Subject:** FW: NRWF - T-Line length modification - Niagara Region Wind Farm

---

**From:** Eduardo Buhain [<mailto:eduardo.buhain@ieso.ca>]

**Sent:** Monday, June 13, 2016 9:01 AM

**To:** Martin St-Pierre <[martin.st-pierre@boralex.com](mailto:martin.st-pierre@boralex.com)>; Adam Rosso <[adam.rosso@boralex.com](mailto:adam.rosso@boralex.com)>

**Subject:** FW: NRWF - T-Line length modification - Niagara Region Wind Farm

Hi Martin and Adam, there is no implication or change to the system impact assessment (SIA).

Please see the confirmation from Fang Gao of our Connection Assessments.

Please let me know if you have further concerns, thanks.

Ed

**Ed Buhain** | Market Registration

Independent Electricity System Operator (IESO) | T: (905) 855-6244

---

**From:** Fang Gao

**Sent:** June 13, 2016 8:13 AM

**To:** Eduardo Buhain

**Subject:** RE: NRWF - T-Line length modification - Niagara Region Wind Farm

Hello Ed,

The change will not affect the SIA.

Thanks,

Fang

---

**From:** Eduardo Buhain

**Sent:** June 10, 2016 4:33 PM

**To:** Fang Gao

**Subject:** FW: NRWF - T-Line length modification - Niagara Region Wind Farm

Hi Fang, there are some changes to the T-Line Length based on the email below.

Please advise if there are changes needed or if this change will affect their SIA.

Thanks,

Ed

**Ed Buhain** | Market Registration

Independent Electricity System Operator (IESO) | T: (905) 855-6244

---

**From:** Martin St-Pierre [<mailto:martin.st-pierre@boralex.com>]  
**Sent:** June 10, 2016 2:00 PM  
**To:** Eduardo Buhain  
**Cc:** [J.Brent.Currie@HydroOne.com](mailto:J.Brent.Currie@HydroOne.com); Adam Rosso  
**Subject:** NRWF - T-Line length modification

Eduardo,

We will have a reduction of between 400-700 Meters of the T-Line length.

Do you see the SIA and CIA remain valid with this minor change?

Regards,

**Martin St-Pierre, ing., P.Eng.**

Directeur Technique

Technical Director

T. 819 363-6377

F. 819 363-6399

[martin.st-pierre@boralex.com](mailto:martin.st-pierre@boralex.com)

36, rue Lajeunesse  
Kingsey Falls (Québec) J0A 1B0  
[www.boralex.com](http://www.boralex.com)

@BoralexInc

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