

## Comments of Wayne Gulden to EBR Registry #011-9446

Amherst Island has long been known as providing excellent habitat for a number of birds, including grassland species like the threatened three listed in Windlectric's application. The favorable combination of relative isolation, low human population and relatively unproductive (for humans) grassland found on Amherst Island is becoming increasingly scarce in southern Ontario. Allowing Windlectric to industrialize essentially the entire island would make a mockery of your ministry's goal of "working to promote healthy, sustainable ecosystems and conserve biodiversity (the variety of life on Earth)."

I've taken the liberty to reformat the content of your Registry entry to make it more understandable, and added item identifiers so I can comment on each of them.

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

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

***(i) an overall benefit to the species will be achieved within a reasonable time through the conditions of the permit;***

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

*(i)(1)- Partnering with an accredited post-secondary institution to conduct research and fill knowledge gaps for Eastern Whip-poor-will;*

*(i)(2)- Conducting pre and post-construction monitoring for Eastern Whip-poor-will to assess use of the habitat by Eastern Whip-poor-will at a wind power facility;*

*(i)(3)- Securing and actively managing an area(s) to create and maintain suitable habitat for Bobolink, Eastern Meadowlark and Eastern Whip-poor-will, at least equivalent in size to the area adversely effected by the activity, for the duration of the project;*

*(i)(4)- Conducting annual monitoring of the created and/or enhanced habitat for an appropriate number of years to assess use by Bobolink, Eastern Meadowlark and Eastern Whip-poor-will.*

***(ii) reasonable alternatives have been considered, including alternatives that would not negatively affect the species, and the best alternative has been adopted; and,***

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

*(ii)(1)- Conducting the activity in an alternative location;*

*(ii)(2)- Using alternate methods, equipment, designs, etc. for carrying out the proposed activity; and*

*(ii)(3)- Adjusting timelines to avoid species specific sensitivities (e.g. active periods for the species).*

***(iii) reasonable steps to minimize negative effects on individual members of the species are required by conditions of the permit.***

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

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

*(iii)(2)- Training and educating contractors and staff on identification and appropriate action to take if encountering Bobolink, Eastern Meadowlark and Eastern Whip-poor-will,*

In my comments, the identifiers refer back to those above.

(i) The words “potential” and “may” are very troublesome. Once MNR issues the permit it will then be up to Windlectric, on what will likely be essentially a voluntary basis, to take undefined future steps to provide an overall benefit for these species. History has shown that corporations will maximize their profits by doing as little as possible pursuing non-productive (for their bottom line) activities. MNR may claim to place conditions on them, but again history has shown that once they get the project into operation you will never be able to revoke their permit and shut them down, regardless of how little they actually do towards mitigation.

(i)(1) Exactly how does partnering and studying help these species? Is it your plan to study them until they are no more? This sounds like a made-up mitigation when there really is no mitigation.

(i)(2) Exactly how does monitoring help these species? Another made-up mitigation.

(i)(3) Creating and maintaining habitat could be a valid mitigation, but consider exactly what that mitigation would have to consist of, assuming the MNR is serious about:

“Overall benefit...must include more than mitigation measures or “replacing” what is lost.” Windlectric would have to find habitat similar in size to Amherst Island that is presently unused by any of these species and then do something to make it as productive as Amherst Island presently is. Would they convert a forest to a grassland? Or would they fill in a marsh? Of course not. At best, what they would do is to buy or otherwise protect some already existing habitat and “preserve” it. Preserving is all well and good, but in the meantime Amherst Island’s excellent habitat is no more. How does “halving” the habitat constitute a benefit?

(i)(4) As with (1) and (2) how does monitoring help these species?

(ii) It’s nice that “reasonable alternatives are being considered”. Is one of these alternatives not building the project at all? Or is that not “reasonable”? They claim that their OPA contract “requires Windlectric to provide a maximum of 75 MW”. As written, this statement makes no sense – they conveniently don’t mention the possibility of a minimum of 0 MW. Is there a substantial financial penalty if Windlectric decides to pull out, or is forced to do so? If not, this statement is untrue, and not building the project is very reasonable.

(ii)(1) An alternative location would be nice, perhaps not in an IBA. By “alternative” Windlectric means moving the turbines around within other constraints that will have no appreciably different effects on the birds.

(ii)(2) There simply don’t exist enough “*alternate methods, equipment, designs, etc*” to avoid turning Amherst Island into an industrial construction zone followed by an industrial power producing plant.

(ii)(3) They may be able to adjust timelines somewhat, but the enormity of the project means that there will be substantial construction disturbance for an extended time, approximately 2 years. During the operation there’s no adjustment at all – the turbines are here 365 days a year for at least 20 years.

(iii) More “potential” and “may include” wording. What is Windlectric actually committing to? Nothing, it seems.

(iii)(1) Timing is nice, at best will make only a marginal difference.

(iii)(2) Training is also nice, but at best will make only a marginal difference.

Except for (i)(3) NONE of these mitigations even comes close to meeting MNR’s requirement of “*undertaking actions to improve circumstances for the species in Ontario*”. And the expense, time and effort required to have (i)(3) actually improve circumstances for these species is so large that it simply won’t be done, no matter what Windlectric or MNR promises.

Stantec, in their Species at Risk Report, naturally downplays the effects the turbines have on grassland birds, stating “Post-construction monitoring at the Wolfe Island Wind Plant has shown no observed avoidance or disturbance effects to Bobolink to date (Stantec, 2010c).” The first problem is that “Stantec 2010c” does not exist. Assuming they mean Stantec 2012c (their Wolfe Island post-construction monitoring reports), let’s take a look. In the last of the referenced studies, #6, there were 3 Bobolink notifications during that one 6-month period. The post-construction counts of Bobolinks in the WI project area were about half of what they were before (14.86 pairs per 10ha in 2006 to 7.93 in 2011). It seems that Stantec has a convenient idea of what constitutes “no observed avoidance”.

In report #6 the MNR expressed concerns about the Bobolink, even recommending a permit under the ESA. The EBR Registry has no indication that such a request has been made. These Bobolink notifications weren’t the first – report #5 also had 3 and MNR had also expressed concerns about those. Is there any reason to think that Windlectric/Stantec on Amherst Island will be any more responsive to the MNR than Transalta/Stantec on Wolfe Island?

If MNR grants Windlectric’s request, history shows that there will no further significant consideration of any of our wildlife, including these 3 species at risk. The studies and stories that follow will show the world just how much damage has been done, regardless of how Stantec, Windlectric, Algonguin or the Crown try to spin it. And it will have been done on your watch. I urge you to take this one and only chance you have to show Ontario citizens that you are serious about protecting our “biodiversity (the variety of life on Earth)”.