

March 6, 2014

**Bryan Finlay, Q.C.**  
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VIA E-MAIL

File 16315.00001

The Honourable Jim Bradley  
Minister of the Environment  
77 Wellesley Street West  
11th Floor, Ferguson Block  
Toronto ON M7A 2T5

The Honourable David Oraziotti  
Minister of Natural Resources  
Suite 6630, 6<sup>th</sup> Floor, Whitney Block  
99 Wellesley Street West  
Toronto, Ontario M7A 1W3

The Honourable Michael Chan  
Ministry of Tourism, Culture and Sport  
9<sup>th</sup> Floor, Hearst Block  
900 Bay Street  
Toronto, Ontario M7A 2E1

Windlectric Inc.  
2845 Bristol Circle,  
Oakville, ON L6H 7H7

Dear Sir:

**Re: Association for the Protection of Amherst Island  
Court File No.: 114/14**

I act for the Association for the Protection of Amherst Island.

I enclose a copy of the Notice of Application for Judicial Review that has been issued today.

I expect to be in a position to serve the Application Record tomorrow upon all parties including the office of the Attorney General for Ontario.

Yours truly,



Bryan Finlay

BF/tr

6209718.1



Court File No. ~~CV114~~ 114/14

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**

**B E T W E E N:**

**ASSOCIATION FOR THE PROTECTION OF AMHERST ISLAND**

**Applicant**

**- and -**

**DIRECTOR OF ENVIRONMENTAL APPROVALS, MINISTRY OF THE  
ENVIRONMENT, WINDLECTRIC INC., MINISTER OF NATURAL RESOURCES, and  
MINISTER OF TOURISM, CULTURE AND SPORT**

**Respondents**

**NOTICE OF APPLICATION FOR JUDICIAL REVIEW**

**TO THE RESPONDENTS**

**A LEGAL PROCEEDING HAS BEEN COMMENCED** by the applicant. The claim made by the applicant appears on the following pages.

**THIS APPLICATION** for judicial review will come on for a hearing before the Divisional Court on a date to be fixed by the registrar at the place of hearing requested by the applicant. The applicant requests that this application be heard at Osgoode Hall, 130 Queen Street West, Toronto.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION,** you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court within thirty days after service on you of the applicant's application record, or not later than 2 p.m. on the day before the hearing, whichever is earlier.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN TO IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

**Date:** March 6, 2014

**Issued by:** W. Karalus

Registrar

Address of court office:

Osgoode Hall  
130 Queen Street West  
Toronto, ON M5H 2N5

**TO: DIRECTOR OF  
ENVIRONMENTAL  
APPROVALS, MINISTRY OF  
THE ENVIRONMENT  
77 Wellesley Street West  
11th Floor, Ferguson Block  
Toronto ON M7A 2T5**

Tel: (416) 314-6790  
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**AND TO: WINDLECTRIC INC.  
2845 Bristol Circle,  
Oakville, ON L6H 7H7**

Tel: (855) 466-8068  
Fax: (905) 465-4514

**AND TO: MINISTER OF NATURAL  
RESOURCES**

P.O. Box 7000, 300 Water St  
Peterborough, ON K9J 8M5

Tel: (705) 755-5041

Fax: (705) 755-1206

**AND TO: MINISTER OF TOURISM,  
CULTURE & SPORT**

Hearst Block, 9th Floor  
900 Bay Street  
Toronto, ON M7A 2E1

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**AND TO: ATTORNEY GENERAL OF  
ONTARIO**

Crown Law Office – Civil  
720 Bay Street, 8<sup>th</sup> Floor  
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## APPLICATION

### 1. THE APPLICANT MAKES APPLICATION FOR:

- (a) an Order setting aside the Decision of the Director of Environmental Approvals of the Ministry of the Environment announced on January 2, 2014 that the application for a Renewable Energy Approval submitted by the Respondent Windlectric Inc. (“**Windlectric**”) with respect to the Amherst Island Energy Project (“**the REA Application**”) is “deemed complete”;
- (b) an interlocutory, interim and permanent order prohibiting the Ministry of the Environment from proceeding until the REA Application is complete; and
- (c) such further and other relief as counsel may advise and this Honourable Court may deem just.

### 2. THE GROUNDS FOR THE APPLICATION ARE:

- (a) For the REA Application to be “deemed complete” it must meet the requirements of the *Ontario Regulation 359/09* under the *Ontario Environmental Protection Act* (“**Regulation**”);
- (b) The REA Application failed to satisfy the statutory requirements in that:
  - i. it failed to provide an Emergency Response and Communications Plan as part of the Design and Operations Report as required by section 13 and Table 1, Item 4 of the *Regulation*;
  - ii. it failed to provide a Heritage Assessment and a Protected Properties Assessment as required by sections 19, 20 and 23 of the *Regulation*;
  - iii. it failed to provide a Natural Heritage Assessment and Environmental Impact Study as required by section 23.1 to 28 of the *Regulation*;
- (c) *Environmental Protection Act*, R.S.O. 1990, Chapter E.9;

- (d) *Ontario Regulation 359/09, Renewable Energy Approvals Under Part V.0.1 of the Environmental Protection Act;*
- (e) *Judicial Review Procedure Act, R.S.O., 1990, c.J-1;*
- (f) *Rules of Civil Procedure, including Rules 14.05(2), 38 and 68; and*
- (g) Such further and other grounds as counsel may advise and this Honourable Court may permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

- (a) the Joint Affidavit of Laurie Kilpatrick, Mark Ritchie, Zander Dunn and Amy Caughey (*Destruction of the Community*) sworn the 6<sup>th</sup> day of March, 2014;
- (b) the Affidavit of Peter Large (*Standing*) sworn the 6<sup>th</sup> day of March, 2014 and the exhibits thereto;
- (c) the Affidavit of Peter Large (*Emergency Response Plan*) sworn the 6<sup>th</sup> day of March, 2014 and the exhibits thereto;
- (d) the Affidavit of Denise Wolfe (*Natural Heritage*) sworn the 6<sup>th</sup> day of March, 2014 and the exhibits thereto;
- (e) the Affidavit of Elizabeth Barr (*Cultural Heritage*) sworn the 5<sup>th</sup> day of March, 2014 and the exhibits thereto;
- (f) Amherst Island Wind Energy Project Design and Operations Report dated April 13, 2013, revised December 2013;
- (g) Amherst Island Wind Energy Project Heritage Assessment dated December 6, 2012, revised April 4, 2013;
- (h) Amherst Island Wind Energy Project Protected Properties Assessment dated December 6, 2012, revised April 1, 2013;

- (i) Amherst Island Wind Energy Project Natural Heritage Assessment & Environmental Impact Study dated November 2012;
- (j) Technical Guide to Renewable Energy Approvals (Ministry of the Environment, 2011);
- (k) the Loyalist Township Municipal Consultation Form released on April 3, 2013;
- (l) The Loyalist Township By-Laws 2013-058, 2013-059, 2013-060, 2013-061, 2013-062, 2013-063, 2013-064, 2013-065, and 2013-066;
- (m) Report to the Loyalist Township Council dated March 22, 2013;
- (n) The Loyalist Township Administrative Committee Report: Windlectric/Algonquin Renewable Energy Approval Commenting Period dated February 27, 2014 (approved by Council on March 3, 2014);
- (o) the County of Lennox and Addington Municipal Consultation Form released on July 23, 2013; and
- (p) such further and other material as counsel may advise and this Honourable Court may permit.

**March 6, 2014**

**WEIRFOULDS LLP**

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**Lawyers for the Applicant**



**ASSOCIATION FOR THE PROTECTION OF AMHERST  
ISLAND**  
Applicant

- and -

**DIRECTOR OF ENVIRONMENTAL APPROVALS**  
et al.  
Respondents

Court File No. ~~CVA14~~ 114/14

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**

Proceeding commenced at Toronto

**NOTICE OF APPLICATION FOR JUDICIAL REVIEW**

**WEIRFOULDS LLP**  
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P.O. Box 35,  
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