

From: [Puco ContactOPSB](#)
To: [Puco Docketing](#)
Subject: public comment - 16-1871-EL-BGN - Sherri Lange
Date: Wednesday, December 11, 2019 8:56:48 AM
Attachments: [final 2 media release stormont napaw .pdf](#)
[Nation Rise - Minister's Decision wrt the Appeal \(3\).pdf](#)
[image001.png](#)
[image002.png](#)

From: Sherri Lange <kodaisl@rogers.com>
Sent: Tuesday, December 10, 2019 6:26 PM
To: Puco ContactOPSB <contactopsb@puco.ohio.gov>
Subject: Please add this to Icebreaker, Case 16 1871 EL BGN

Dear Mr. Butler:

Hope this finds you well.

The Minister of the Environment for Ontario, Jeff Yurek (Ministry of Environment, Conservation and Parks), has issued a revocation for a wind project of about 33 turbines, 100 MW, at Stormont. This project is called, Nations Rise. Six of the 33 turbines were constructed already. Wells are already plugged or contaminated.

There has been massive unrest due to this project going ahead, while the Green Energy Act had been cancelled, and the new Premier had promised no new projects would go in the ground. However, this one slipped under some deadlines.

Minister Yurek has shown that he understands fully the problems of losing bats, vulnerable in the most high degree worldwide, and to this community, three roosts. The Media Release explains that this also, along with the cancellation of 758 wind and solar projects when this PC (Progressive Conservative) party took office 2 years ago, is a ground breaking decision, based on the needs of Nature, not profit taking. You may recall, that the other side of Lake Erie, the Canadian side, has an offshore moratorium since 2011, not to be lifted any time soon, if ever.

We would appreciate having this filed under comments for Icebreaker. It obviously has importance for the bats endangered or at risk in OHIO, and rimming the Great Lakes, many of which migrate, and many which may be local colonies near or at Cuyahoga and Cleveland, but the animals will still venture out of curiosity and food seeking, to the offshore locations proposed.

The problems of losing bats are extremely well known. Losing even ONE female can impact the entire reproduction of the colony.

Thank you!

Kind regards,

Sherri

PS Please also file this letter below, which was given to us for posting.

Calvin Luther Martin <19clay@gmail.com>

To: jeff.yurek@pc.ola.org

Dec. 10 at 2:23 p.m.

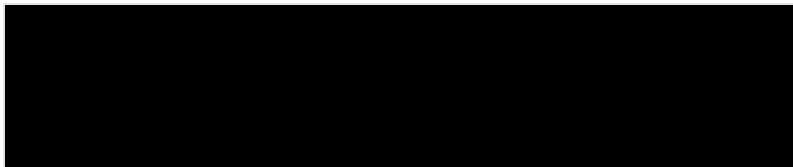
Dear Minister Yurek,


We applaud your cancelling the turbine project south of Ottawa! Well done! You are courageous and wise. You are also, by the way, scientifically sound. (If the developer sues you for this bold act, contact my wife, [Nina Pierpont, MD, PhD](#), for plenty of scientific justification for stopping this project vis-a-vis the bats. She can furnish you with peer-reviewed science articles, and could even testify in support of your decision. See her credentials, below.)

I am a retired Rutgers University professor of history. Years ago I had a Canadian Embassy fellowship to spend a year at Queen's University as a visiting professor. I spent a lovely year in Kingston. (I was born in Toronto, raised in Quebec. Went to the US for college and graduate school, and stayed.)

My wife Nina, who is co-signing this, holds an honors BA in biology from Yale, Princeton PhD in biology (behavioral ecology/evolutionary biology/population biology), and MD from the Johns Hopkins University School of Medicine. Nina lived in the Amazon jungle in a tent for 2 years (all told), studying bird behavior. Lots of bats in the Amazon jungle!

Nina is the author of "[Wind Turbine Syndrome: A Report on a Natural Experiment](#)"





Wind Turbine Syndrome | What is Wind Turbine Syndrome?

” (K-Selected Books, 2009). The book that went around the world — translated into 8 different languages.

We cheer you on!

Calvin Luther Martin, PhD

Nina Pierpont, MD, PhD

Malone NY

ALSO:

From: Helen Parker <windscoop.mvy@gmail.com>

Subject: THANK YOU!!!

Date: December 10, 2019 at 3:10:08 PM EST

To: jeff.yurekco@pc.ola.org

Cc: Sherri Lange <kodaisl@rogers.com>

Enormous thanks to you, Minister Yurek, for your courageous, wise, and compassionate cancellation of the approval for the Nations Rise 100 MW wind turbine project.

We here in Martha’s Vineyard are fighting very hard against the proposal to place an initial 800 MW [eventually extending to 7,000 MW!!] offshore array just 15 miles from our homes, our pets, livestock, wildlife, and from our

tourist economy - which would surely be devastated by the infra sound emitted, as well as eviscerate the entirety of the region's fisheries, an important worldwide food resource.

Your action gives us hope - and support. Thank you!!!

We invite you to tune into the video of an important meeting here where the Edgartown (MA) Conservation Commission denied the permit for the Vineyard Wind cable to pass thru Muskeget Channel. A 5-hour meeting, I edited it down to a more digestible 97 minutes which nevertheless preserves the essence of every speaker pro and con. Quite a tale it tells - and including why that cable will never be successfully buried here. The developer doesn't care. The State is attempting to un-constitutionally overrule the town board's action.

I'm existentially persuaded that our sentient earth will not let this happen, but every nail helps the coffin lid become secured for all time.

See: "The Fishermen's Meeting.Edgartown.6.27.19" on YouTube:

<https://www.youtube.com/watch?v=rGCAQdo7bv0&feature=youtu.be>

I completed the last two articles [referenced on a pamphlet back copied below] almost three years ago. Both the video and any of the references cited below might be useful in an effort to educate your constituents as to your reasoning.

If you want the BigWind Scoop,
bookmark these news and info sites:

<http://wiseenergy.org/>

www.windaction.org

<http://www.wind-watch.org/>

See <http://windvigilance.com> for

links to independent studies of
IWT health impacts from 2010.
[The news has only gotten worse.]

**Read why no matter the climate challenge,
Industrial Wind is Not the Answer:**

An Ill Wind Blowing? The New American

How Less Became More:
Wind and Unintended Consequences
in the Colorado Energy Market

Why Wind Won't Work by Jon Boone

Hidden Fuel Costs of Wind deGroot & lePair

Renewable and Nuclear Heresies
Jesse Ausubel

Wind-Turbine Noise: What Audiologists Should Know in Audiology Today

The Secret Silent Wind Power Peril
in Master Resource 2-7-2017

Science Deniers in the Wind Industry:
The Human Health Consequences of Manipulated Measurements
in Watts Up With That? 3-8-2017

Why are we not paying attention?

windscoop.mvy@gmail.com

Sincerely,

Helen Schwiesow Parker, PhD, LCP

Chilmark, MA (USA)

Sherri Lange

CEO, NA-PAW, North American Platform Against Wind Power

Executive Director, Canada, Great Lakes Wind Truth

VP Canada, Save the Eagles International

kodaisl@rogers.com

www.na-paw.org

Twitter: #torwinaction

Please note that messages to these lists are intended for the private members and invitees only. If the material is informational, please feel free to circulate. If posting, please consider copyright laws. Please note that not all the views contained in circulation of news are those of NA-PAW. If you have received this in error, please respond to the writer and delete the message.

Thank you!



Call

Send SMS

Call from mobile

Add to Skype

You'll need Skype Credit



FOR IMMEDIATE RELEASE

DECEMBER 10 2019

MINISTER OF ENVIRONMENT, CONSERVATION AND PARKS, ONTARIO, JEFF YUREK, creates a clear and irrefutable energy and environment announcement: CANCELS UNNEEDED, WILDLIFE KILLING, AND EXPENSIVE STORMONT, 100 MW NATION RISE INDUSTRIAL WIND PROJECT

The letter from the Minister of the Environment, Conservation and Parks, explaining his reasons for revoking the permit for the [Nations Rise 100 MW wind](#) turbine project, is clear. Minister Jeff Yurek, finds that there “will be harm to bats,” and that significant gaps exist within the developer’s mandate; monitoring only ten turbines of the possible 33 sites, and monitoring only two of three significant bat habitats is, he states, unacceptable. Additionally, The Minister finds that the monitoring of only three years, with a mitigation protocol that would only be required after ten bats per turbine were destroyed, does not match his view for meaningful “conservation” of species. (*Turbines in Ontario have been “developer” accounted to be killing upwards of [18.52 bats per turbine per year](#). The actual number is much higher. Developer led mortality studies under report by 90-95%. There is no suitable “threshold” for bat kills.*) After an unsuccessful challenge at the ERT (Environmental Review Tribunal), Concerned Citizens of North Stormont filed an appeal with the Minister. Please also see the public Facebook Group: *Stop Wind Turbines In North Stormont*.

These are correctly identified by the Minister as significant gaps. We might say chasms; omissions and developer-favored advantages, disadvantages to communities, people and wildlife led by developers’ inadequate, confusing, and



patently dishonest reporting. The expenditure of taxpayers' money on yet another unneeded project within clearly sensitive habitat and wildlife, and proven bat roosts, is completely disturbing. "These grossly disturbing features of projects are advanced by falsehoods from paid consultants who specialize in and get bonus points for testifying at Environmental Review Tribunals that citizens rarely win. This and completely insincere monitoring, are widespread industry standards," says Lange of the North American Platform Against Wind. "We will never know the full impact of the losses of wildlife for generations, and some species sadly will be unrecoverable." (Details of the nature of mortality monitoring in general can be seen at these Master Resource sites below.) Some of the experts call this wildlife loss: ecocide or wildlife genocide.

"The wind industry is ... producing faulty, misleading and even fraudulent documents to hide the serious and growing mortality. This situation has continued for years but has been shielded by state and federal agencies and other supporters of wind power."

A "green energy" wildlife genocide is depopulating wildlife habitats across the world where vital species once found refuge. (See links below)

<https://www.masterresource.org/cuisinarts-of-the-air/wind-avian-mortality-ii/>

<https://www.masterresource.org/cuisinarts-of-the-air/hiding-avian-mortality-altamont-pass/>

"The seriousness of this harm," Minister Yurek states, "is increased because of the relatively small size of the species population." Minister Yurek clearly has zeroed in on the vanishing act of bats globally and recognizes the conservation safeguards needed to conserve even or especially, the smallest groups, colonies. The North American Platform applauds the Minister for this knowledge, and his willingness to act on the facts of the day. *Bats are disappearing, worldwide, at crisis levels. Further, Minister Yurek indicates he will "ask Staff to review how harm to bats is assessed as part of the Renewable Energy Process..."*



The Minister also confirms that this relatively small project, has limited energy benefit to the province. [Ontario currently dumps excess power](#) {2018, link is to 2013 numbers} to the US, Michigan and NY, to the tune of about 2 Billion Dollars annually. We suggest that the negative economics of this and every wind project, heavily subsidized and parasitic to baseload and useful electrical supply, is a heartbreaking and unprecedented demonstration of waste and environmental destruction.

It has long been known that turbines are eco traps for not only bats but pollinators and birds as well. Turbines provide roosting, nesting, and foraging opportunities on and offshore. With the growing concern about the need for bat conservation worldwide, this decision is abundantly welcome and applauded. Groups and individuals around the province are celebrating. Many have called the Minister's office. Some are calling and emailing from the U.S.

Regrettably, there are still many other projects with residents reporting massive and under reported bat, bird and wildlife kills. The [Niagara Region project](#) recently received approval to halt post construction mortality reviews/counts, having exceeded disastrous mortality over "threshold" numbers in two years of reporting, on the basis that "the landscape had been altered to tilled land, and was not the same "habitat" as when the approval had been granted." Habitat altered, no need to conduct further studies. These are some of the tricks used by developers to habitually deceive. The complete environmental devastation is not yet fully understood and could span hundreds of years. Damages to hydrology, ecology, wildlife kills, impacted soil quality, swaths of unusable unsaleable land, "out of service" turbine hulks rusting in the sun and tons of cement from the bases, never to be removed. Many now note: the clean up and decommissioning of industrial wind (and [solar](#)) is about to show us new toxic challenges. "Green energy:"



Useless, and immeasurably harmful. This is not market driven. It is subsidy driven systemic “fraud.”

THE SUBSTORY, NOT TO BE NEGLECTED

The understory to this announcement is of course the massive epidemic level health impacts, Ontario and beyond. Please see [Dr Mariana Alves Pereira's lecture](#) this past summer at the University of Waterloo, sponsored by Professor Richard Mann. That the Minister may request more information and knowledge about the impacts of ILFN is also clear.

The North American Platform congratulates all the persons and groups who worked tirelessly to end this project. Residents Ruby Mekker and Rainer Pethke have not allowed one day to go by without furthering access to anyone in any place that could help abort or put a moratorium on this project until known gaps and issues in the renewable energy approval are addressed. They now have promised to work to help others still suffering under other wind projects. Ruby Mekker of Stormont stated to NA-PAW: “We would not stop knowing the harm that had impacted Ontario communities. Now we will work to liberate others from the harm. We deeply thank Minister Yurek.”

Rainer Pethke stated; “We are ecstatic and commend the Minister for taking firm action. While we welcome this respite, this is no time to stop. There are still at least 10 local wells impacted already. We must continue to put bylaws in place to regulate Nation Rise or any wind company that may wish to take advantage in the future now that the Green Energy Act is repealed. There is still much to do here, and we cannot forget to support those still suffering across Ontario, who yet came forward to help us. We must also help support the Minister against those seeking to seek political gain from this and what we expect will be other difficult decisions.”

Lange adds that if anyone opposed to or involved in wind turbines issues in Ontario does not yet have the pleasure of numerous early morning, and I do mean



early, phone calls from Ruby, and numerous emails, messages, more phone calls in a day than you dreamed of, you have not yet met the force of the movement.

Please see the Facebook Group page:

Stop Wind Turbines in North Stormont.

Sherri Lange

CEO North American Platform Against Wind Power

Founding Director, Toronto Wind Action

VP Save the Eagles International Canada

Founding Member Great Lakes Wind Truth Canada

416 567 5115

Additional Contacts:

Rainer Pethke

rpethke@gmail.com

1 613 762 9175

Ruby Mekker

rjmekker@gmail.com

1 613 360 0000

FACTS ABOUT BATS

- Bats are eco warriors, each animal consuming up to and beyond 1000 insects per hour.
- Agricultural advantages with healthy bat populations are estimated to be between [3.7 and 53 BILLION Dollars per year](#), as the need for insecticide is sharply reduced.



"This study did not even consider what the indirect costs of "replacing" bats with pesticides would be in terms of potential health and pollution threats from greater levels of toxins in the environment."

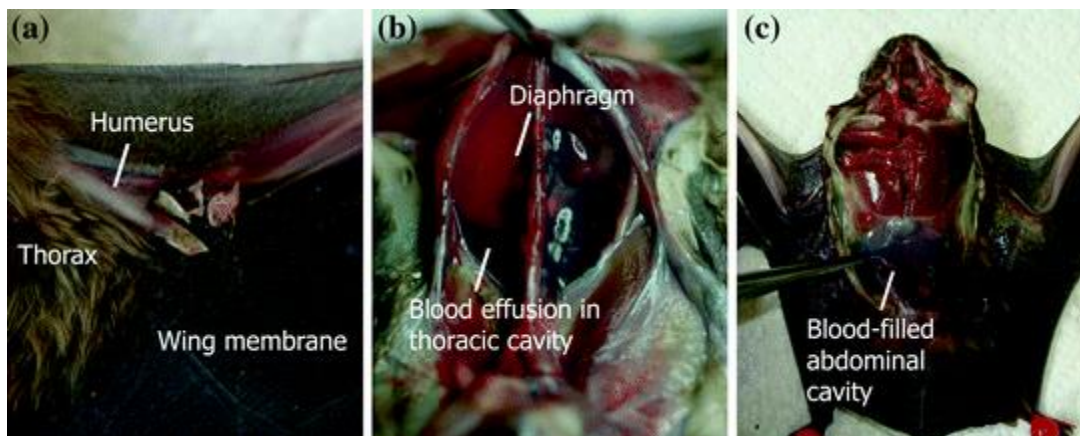
- Bats are the most abundant mammal in the rainforests; some species are called "gardeners of the air," as they fly at night and pollinate and fertilize plants and trees.
- Bats play a key role in helping trees re-establish after cutting or clearing. "The quality of life for humans is directly related to a healthy global environment, and keeping that environment healthy requires bats," says the book [*Bats of the World*](#), by Gary L. Graham.
- <https://www.mnn.com/earth-matters/animals/photos/11-of-the-smallest-mammals-in-the-world/bumblebee-bat> The smallest bat in the world weights in at 2 grams, it is said you might confuse it for a bumble bee should it fly past your ear! "The bumblebee bat, also known as Kitti's hog-nosed bat, is the world's smallest bat and the smallest mammal in the world based on skull size." Unfortunately, its delicate size is also indicative of its biological status. The [IUCN lists the animal](#) as vulnerable, and a few roosting populations are at risk of extinction due primarily to human activity."
- One of the largest bats is the giant Golden-Crowned Flying Fox: Individuals can weigh up to 1.4 kg, or 3.1 pounds.
- "The International Union for the Conservation of Nature (IUCN) currently lists 24 bat species as Critically Endangered, meaning they face an imminent risk of extinction. Fifty-three others are Endangered, and 104 bat species are considered Vulnerable. Bats also are among the most under-studied of mammals." www.batcon.org › [why-bats](#) › [bats-are](#) › [bats-are-threatened](#)
- Jul 19, 2018 – "[Of Ontario's bats](#), populations of little brown myotis **bats**, northern long-eared myotis and tricolored **bats** have been so affected that these are now considered provincially and nationally **endangered**, while the eastern small-footed myotis is considered **endangered** in Ontario."
- Wind turbines are now considered the most harmful aspect to the existence and sustenance of bat populations worldwide. White Nose Syndrome has taken second place. Bats are fatally

attracted to turbines as many experts say they see them as “trees,” roosting, nesting, or foraging areas.

- The death of one female can endanger an entire colony. Bats reproduce usually one pup per year, or rarely two per year. Disruption of hibernation is disastrous to an entire colony, even if ONE bat is awakened and disrupts the temperature of the group.

HOW DO BATS DIE AT WIND TURBINE SITES

DIRECT IMPACTS AND BAROTRAUMA. BATS' LUNGS ARE PAPER THIN. Due to changes in pressure at the tips of the blades, bats foraging or curious, experience bursting in the lungs and drown in their own blood. They can also have their delicate hearing impaired, and some are irreparably damaged and fly off to perish far beyond the fleeting and unsubstantial mortality counting “range” of the developer.



**Fig. 11.2**

Blunt force trauma (**a**) and barotrauma (**b**, **c**) in three noctule bats (*Nyctalus noctula*) killed at wind turbine in Germany. **a** Ventral view of an open fracture of the left humerus at the height of the elbow joint. **b** Ventral view of the opened abdominal cavity with blood effusion in the thoracic cavity visible behind the diaphragm (hemothorax). **c**

[Wind energy development is not environmentally neutral](#), and impacts to wildlife and their habitats have been documented and are of increasing concern. Wind energy development affects wildlife through direct mortality and indirectly through impacts on habitat structure and function (Arnett et al. [2007](#); Arnett [2012](#); NRC [2007](#); Strickland et al. [2011](#)). Bats are killed by blunt force trauma or barotrauma and may also suffer from inner ear damage and other injuries not readily noticed by examining carcasses in the field (Baerwald et al. [2008](#); Grodsky et al. [2011](#); Rollins et al. [2012](#); Fig. [11.2](#)). Kunz et al ([2007a](#)) proposed several hypotheses that may explain why bats are killed and some of these ideas have subsequently been discussed by others (e.g., Cryan and Barclay [2009](#); Rydell et al [2010a](#)). Collisions at turbines do not appear to be chance events, and bats probably are attracted to turbines either directly, as turbines may resemble roosts (Cryan [2008](#)), or indirectly, because turbines attract insects on which the bats feed (Rydell et al. [2010b](#)). Horn et al. ([2008](#)) and Cryan et al. ([2014](#)) provide video evidence of possible attraction of bats to wind turbines.

OTHER READING:

<https://www.scientificamerican.com/article/bat-killings-by-wind-energy-turbines-continue/>

<https://nationalpost.com/news/canada/wind-farms-causing-thousands-of-bats-to-die-of-collapsed-lungs-annually-in-alberta-top-bat-expert>

####

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement,
de la Protection de la nature et des
Parcs

Office of the Minister

Bureau du ministre

777 Bay Street, 5th Floor
Toronto ON M7A 2J3
Tel.: 416-314-6790

777, rue Bay, 5^e étage
Toronto (Ontario) M7A 2J3
Tél. : 416.314.6790



Ms. Margaret Benke
macbenke@aol.com

December 4, 2019

RE: Appeal to the Minister of the Environment, Conservation and Parks in CCNS v.
Director, Nation Rise Wind Farm GP Inc., ERT Case No. 18-028

Dear Ms. Benke:

The appeal before me is of a January 4, 2019 decision of the Environmental Review Tribunal confirming a decision of the Director to issue a Renewable Energy Approval to Nation Rise Wind Farm GP Inc. (the Approval Holder). The Tribunal held a hearing on the approval over nine days in the fall of 2018. The Tribunal's decision was appealed to me on February 4, 2019, within the window of the 30-day appeal period provided for under the Environment Protection Act (EPA). The appellant has also asked for a stay of the Tribunal's decision in order to halt the construction of the project.

The appellant in the appeal is a local residents group named the Concerned Citizens of North Stormont. The respondents are the Director who issued the approval under the EPA and the Approval Holder.

The proposed project is a Class 4 Wind Facility with a proposed electricity generating capacity of up to 100 megawatts, with up to 33 turbines to be located at various locations within the municipality of United Counties of Stormont, Dundas and Glengarry. I understand that the project is currently under construction.

I thank the parties and everyone who participated in the hearing before the Tribunal and this appeal for their time in addressing these issues in a thoughtful way. This was not an

easy decision to make. While I agree with most of the decisions of the Tribunal, I disagree with the Tribunal's conclusions with respect to the degree of harm that will be caused to local bat species by the project. I am therefore altering the Tribunal's decision based on my conclusion that the project will cause serious and irreversible harm to bats and I revoke the approval. My reasons for doing so are set out below.

On the stay issue, I am not granting the stay requested because it is now unnecessary to do so given that I have decided the main issues. I do point out, however, that even if I had granted the stay, the stay would have been of the Tribunal's decision and not the approval itself. The stay, therefore, would have had no effect on whether the ongoing construction of the project could continue and would not have been responsive to the appellant's request.

My Responsibility for the EPA and the Environmental Review Tribunal

The issues before me in the main part of the appeal relate to an environmental protection issue in Ontario.

The purpose of the EPA is to provide for the protection and conservation of the natural environment.

As Minister responsible for the EPA I have been given a broad mandate by the legislature to administer the Act and general environmental policies in a way that provides for the protection and conservation of the natural environment. For the purposes of considerations related to renewable energy approvals, the meaning of "environment" not only includes air, land, water, plants and animal life, but also human life and the social, economic and cultural conditions that influence the life of humans or a community, and the interrelationships between all of these things.

The scope of my mandate includes such diverse powers and responsibilities such as appointing statutory decision makers, including Directors and Provincial officers who issue regulatory instruments and conduct regulatory enforcement, issuing certain regulatory orders directly, making regulations, setting regulatory charges, investigating

problems of pollution, conducting research and studies, making grants, disseminating information, appointing committees, establishing and operating waste management systems, waste disposal sites, and waste reduction systems.

These powers and responsibilities include overseeing decisions of the Environmental Review Tribunal through appeals, which is how this decision came before me.

Scope of the Appeal

In this appeal of the Tribunal's decision I am to assess the decision from the perspective of whether engaging in the proposed renewable project in accordance with its renewable energy approval will cause: (i) serious harm to human health; or (ii) serious and irreversible harm to plant life, animal life or the natural environment. This test is commonly referred to as the "harms test" and is the test that the Tribunal must apply when considering an appeal of a renewable energy approval. If I find that one or more of the concerns raised meets the harms test, then I can consider broader issues related to the public interest in deciding whether to confirm, alter, or revoke the decision of the Tribunal.

As an aside, I note that neither the Tribunal, nor myself on appeal of a decision of the Tribunal, are so narrowly confined in other matters. The harms test only applies in the context of a third-party appeal of a renewable energy approval.

My assessment of the Tribunal's decision also requires me to assume that the terms and conditions of the renewable energy approval will be complied with. Questions related to enforcement of the approval or the EPA more broadly are to be addressed by the Ministry through its compliance and enforcement tools. That said, if the harms test is met, it is open to me to revise the terms and conditions of the approval.

In its appeal, the appellant raised several issues that in its view the Tribunal failed to consider appropriately. These issues related to the impact of turbine noise on human health, impacts to public safety from ice throw and turbine failure, and potential impacts to soil stability and well water.

The appellant also raised several issues that were not before the Tribunal and that I am regrettably not able to deal with in assessing the Tribunal's application of the harms test because of the limitations imposed both on the Tribunal on appeal and on me in considering a decision of the Tribunal on appeal under Parts V.0.1 (Renewable Energy) and XIII (Appeals to Tribunal) of the EPA. The issues can be summarized as relating to provincial electricity needs and costs, policies related to carbon emissions, economic issues and the renewable energy approval application process, including applicable laws and guidelines.

The parties were also asked by me in August 2019 to provide additional submissions on three issues that in my view were critical to assessing whether the proposed project would cause harm to human health, animal life or the natural environment. These issues related to harm to birds and bats, harm resulting from stray voltage, and harm to human health resulting from noise as a result of the modeling approach that was applied to the project. While the issue of harm to birds and bats was considered by the Tribunal, it was not part of the appellant's initial submissions. Each of the parties took the opportunity to provide additional submissions on these issues.

For the most part, I agree with the findings of the Tribunal on the issues that it considered. I found its decision thorough and well reasoned. I am also of the view that neither the evidence before me on stray voltage nor the noise modeling approach applied to the project demonstrate that the harms test has been met.

Harm to Bats

On the one issue where my views depart from those of the Tribunal, however, and the position of the Director and Approval Holder, is on the degree of localized harm to bats that will result from the project. In my view, the harm that will result comes within the meaning of serious and irreversible harm to animal life as that term is used in the second part of the harms test.

The Approval Holder studied two of three bat maternity colonies as part of their pre-construction monitoring. The third colony could not be studied due to site access issues. The two studied colonies were considered to contain significant bat habitat and the third was assumed to also contain significant bat habitat.

The evidence before the Tribunal on the bat maternity colonies, including that from the Approval Holder's extensive field research, demonstrates in my view that while not large given the limited availability of beneficial habitat, they include colonies of Big Brown bats and Hoary bats, as well as the Little Brown bat which is listed on the Species at Risk Ontario List. The evidence also shows that project's operation will result in the mortality of bats due to collision with turbine blades, and that this impact is likely to be more significant with non-listed bats.

In my view, this means that there will be localized harm to an already small bat population. The seriousness of this harm is increased because of the relatively small size of the species population. While it is impossible to know with complete certainty the full extent of the harm that the operation of the proposed project will have on the bat species populations before the project has been operating for some years, I choose to exercise precaution in determining the seriousness of this harm and whether it will be irreversible. In my view, the harm will be both serious and irreversible to animal life given the relatively small bat species populations in the local area.

Remedy

Having decided that the operation of the project will result in a serious and irreversible harm to local bat species I must consider the appropriate remedy. Under the EPA, I can confirm, alter or revoke the decision of the Tribunal as I consider in the public interest.

In some circumstances, the next step in the process would be to hold what is commonly referred to as a "remedy hearing" and take submissions on the parties on what is the appropriate remedy, including amending the terms and conditions of the approval, revoking the approval, or directing the Director to take a specific action. In this case I don't believe that a third round of submissions is necessary in this particular case in

light of the public interest reasons for revocation that I set out below. I am also mindful that a third round of submissions would prolong the appeal process.

Where the public interest lies in this project poses a particular challenge given the expanded definition of the term “environment” in Part V.0.1 of the EPA for the purposes of renewable energy project approvals, which as mentioned above includes “social, economic and cultural conditions that influence the life of humans or a community”. This requires me to balance several things in my considerations of the public interest, including the benefits of renewable energy against the harm to bats, the impact of the project on the local community, and the need for the electricity from the project. In terms of electricity need, while renewable energy is an important component of the province’s electricity grid, the project’s expected output of up to 100 megawatts, as noted on the approval, is obviously only a small fraction of Ontario’s energy usage.

As the Tribunal noted, the “P” conditions of the approval specifically require that the Approval Holder monitor the impacts through the proposed Environmental Effects Monitoring Plan and take steps in some circumstances to limit harm. While these requirements are somewhat helpful, condition P 6 only requires monitoring at “a minimum of ten (10) turbines”, and not at all the thirty-three potential turbines, and condition P 5 only requires monitoring for two of the three significant bat habitats. Condition P 14 only requires the monitoring to continue for three years. Also, the proposed operational mitigation measures required by condition P 8 of the approval only kick in after a significant number of bats, at a rate of ten per turbine per year, are known to have been killed by the operation of the project. These, in my view, create significant gaps in the monitoring and mitigation measures required by the approval.

Even if these conditions could be improved to limit harm to local bats, harm will still occur. Considering this harm together in the context of the minimal contribution the project is likely to have on the electricity supply in Ontario, in my view it is not appropriate to confirm the decision of the Tribunal, but rather amend it to revoke the approval.

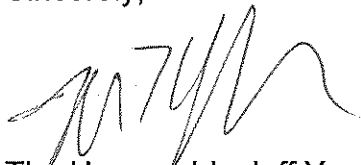
As noted above, it is unfortunate that the process of ensuring the appropriateness of the issuance of a renewable energy approval is such an arduous one. While not directly applicable to this decision, I note that the Ontario Government has taken steps to improve the decision making process as it applies to renewable energy approvals, including amending the Renewable Energy Approvals regulation under the EPA to add eligibility requirements related to electricity demand and return decision making authority under the Planning Act as it relates to renewable energy projects to municipalities.

Finally, I note that I have asked Ministry staff to review how harm to bats is assessed as part of the renewable energy approval process and related guidelines and whether any changes might be necessary.

Decision

I amend the decision of the Tribunal to find serious and irreversible harm to bats and revoke the approval.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jeff Yurek', with a stylized flourish at the end.

The Honourable Jeff Yurek
Minister of the Environment, Conservation and Parks

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/11/2019 9:25:56 AM

in

Case No(s). 16-1871-EL-BGN

Summary: Public Comment of Sherri Lange via website electronically filed by Docketing Staff
on behalf of Docketing