

**Environment and Land Tribunals
Ontario**
Environmental Review Tribunal

**Tribunaux de l'environnement et de
l'aménagement du territoire Ontario**
Tribunal de l'environnement



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Case No.: 12-148

Under Rules 130 and 131 of its Rules of Practice, the Environmental Review Tribunal has directed the Approval Holder, McLean's Mountain Wind GP Inc. to give this Notice of Preliminary Hearing and Hearing.

NOTICE OF PRELIMINARY HEARING AND HEARING

In the matter of an appeal by Manitoulin Coalition for Safe Energy Alternatives Inc. filed November 14, 2012 for a Hearing before the Environmental Review Tribunal (Tribunal) pursuant to section 142.1 of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended with respect to a Renewable Energy Approval issued by the Director, Ministry of the Environment, on October 31, 2012 to McLean's Mountain Wind GP Inc. under section 47.5 of the *Environmental Protection Act*, regarding the construction, installation, operation, use and retiring of a Class 4 wind facility with a total name plate capacity of 60 megawatts at a site located at 13 Worthington Street, in the Town of Northeastern Manitoulin and The Islands, District of Manitoulin, Ontario.

The purpose of the Hearing is for the Tribunal to review the Director's decision and consider only whether engaging in the renewable energy project in accordance with the Renewable Energy Approval will cause serious harm to human health or serious and irreversible harm to plant life, animal life or the natural environment. If the Tribunal determines that such harm will be caused, the Tribunal may revoke the Director's decision; by order, direct the Director to take such action as the Tribunal considers appropriate; or alter the Director's decision, for which purpose the Tribunal may substitute its own opinion. If the Tribunal determines that such harm will not be caused, the Tribunal shall confirm the Director's decision.

Preliminary Hearing:

A Preliminary Hearing will be conducted by the Hearing Panel on:

Date: **Tuesday, December 18, 2012**

Time: **1:00 p.m.**

Location: **Lion's Den
The Town of Northeastern Manitoulin and
The Islands Recreation Centre**

9001 Highway 6
Little Current, Ontario

The purpose of the Preliminary Hearing will be to rule on requests from groups and individuals for Party, Participant or Presenter status, to identify the issues to be considered at the main Hearing and to deal with any preliminary matters that may be raised by Parties, Participants and Presenters.

How to Participate:

Any person who wishes to participate in this Hearing as a Party, Participant or Presenter should provide their request in writing (preferably by email) to the Case Coordinator by 4:00 p.m. no later than **December 14, 2012** stating what status they are seeking; their interest in the proceeding; a statement of the issues, facts and submissions relevant to the appeal that they wish to present; and whether their participation is likely to make a relevant contribution to the Tribunal's determination of whether engaging in the renewable energy project in accordance with the approval will cause serious harm to human health or serious and irreversible harm to plant life, animal life or the natural environment. If a written request is not received by the required deadline, the Tribunal may refuse the request.

Main Hearing:

The hearing of evidence in this appeal will commence on:

Date: **Thursday, January 10, 2013**

Time: **10:00 a.m.**

Location: Lion's Den
The Town of Northeastern Manitoulin and
The Islands Recreation Centre
9001 Highway 6
Little Current, Ontario

and will continue, if necessary, on dates to be confirmed at the preliminary hearing.

TAKE NOTICE that the Preliminary Hearing and Hearing dates are **peremptory** to all Parties, Participants and Presenters. If you do not attend at the Preliminary Hearing and identify yourself to the Tribunal, the Environmental Review Tribunal may proceed in your absence and you will not receive any further notice in these proceedings. The Tribunal may make orders with respect to the conduct of the proceeding which will be binding on all present and future Parties, Participants and Presenters.

Tribunal Services

There will be no reporting services provided by the Environmental Review Tribunal for the Hearing. If Parties consider that they require a transcript of the proceedings they may obtain such service at their own expense.

We are committed to providing the highest quality of service to the public. This includes a commitment to providing an inclusive and accessible environment in which all members of the public have equal access to its services and are treated with dignity and respect. If you have any needs with respect to accessing the Tribunal's services, please contact us as soon as possible.

If you require service in French, please advise the Tribunal as soon as you receive this letter. Si vous avez besoin de services en français, veuillez contacter le Tribunal de l'environnement quand vous recevrez cette lettre.

For more information, please review the *Environmental Protection Act*, the Rules of Practice and Practice Directions of the Environmental Review Tribunal, and "A Guide to Appeals under section 142.1 of the *Environmental Protection Act*", which are available on the Tribunal's website at www.elto.gov.on.ca.

DATED at **TORONTO**, this **22nd** day of **November, 2012**.



Donna Symonds
Deputy Registrar

Information Contact:

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Schedule of Events for Appeal Number 12-148

October 31, 2012	November 15, 2012	November 19, 2012	November 23, 2012	November 28, 2012	December 6, 2012	December 14, 2012
	15 days after notice of decision	Within 4 days after Director receives Appeal Notice	Within 8 days after Appeal expiry date	Within 14 days after Director receives Appeal Notice	Within 3 weeks after Appeal expiry date	At least 4 days before the Preliminary Hearing
Notice of decision on renewable energy project posted on Environmental Registry	Appeal expiry date	Notice list: Director gives Approval Holder the name and address list for notices	Notice Issued: Preliminary Hearing, Continuation of Preliminary Hearing and Hearing dates	Initial Disclosure: Director gives to Appellant and files with Tribunal material relevant to the statutory test from public consultation on renewable energy approval application	Disclosure: Exchange among Parties of relevant existing documents within Parties' possession, control or power (except privileged documents), and exchange, and filing of existing lists of witnesses, summary of intended evidence relevant to the subject matter of the appeal and a statement of the issues and material facts to be relied on by the Parties in responding to Appellant's issues	Request for Status: Written request to Tribunal to be added as Party, Participant and Presenter (must set out status sought, how test is met and statement of the issues and material facts) The Tribunal will subsequently forward the request to the Parties or direct the requestor to do so.

December 17, 2012	December 18, 2012	December 20, 2012	December 24, 2012 by noon	January 3, 2013	January 7, 2013	January 10, 2013	May 14, 2013
At least 1 day before the Preliminary Hearing	4 weeks After Appeal expiry date	Within 5 weeks after Appeal expiry date	Within 5.5 Weeks after Appeal expiry Date	At least 7 days Before the Hearing	At least 4 days before the Hearing	8 weeks after Appeal expiry date	Within 6 months after Tribunal receives Appeal Notice
Response to status request: By Appellant, Director and Approval holder	Preliminary Hearing to: Determine Party, Participant, Presenter Status, define issues, hear preliminary motions	Mediation (if applicable)	Additional Disclosure: Exchange among Parties and filing of additional documents, lists of additional intended witnesses, witness statements for all witnesses and resumes of expert witnesses, to be relied on at the Hearing. If any Party wishes to file reply witness statements, they must exchange and file them within 6.5 weeks after the Appeal expiry period. December 31, 2012 by noon.	Issues and facts still in dispute: Filing by Parties of material, list of facts and issues still in dispute	Continuation of the Preliminary Hearing: To finalize issues and witness lists; issue further directions, if appropriate	Date of Hearing	Release of Tribunal's Decision (as required by the <i>Environmental Protection Act</i>)