

**Environment and Land Tribunals
Ontario**

Environmental Review Tribunal

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

Tribunal de l'environnement



655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 314-4506
Website: www.elto.gov.on.ca

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 314-4506
Site Web: www.elto.gov.on.ca

December 6, 2010

VIA FAX AND REGULAR MAIL

Frederika Rotter and Andrea Huckins
Ministry of the Attorney General
Legal Services Branch, Environment
135 St. Clair Avenue West, 10th Floor
Toronto ON M4V 1P5

Eric K. Gillespie Professional Corporation
10 King Street East
Suite 600
Toronto, ON M5C 1C3

Albert M. Engel
Fogler, Rubinoff LLP
95 Wellington Street West, Suite 1200
Toronto, ON M5J 2Z9

Dear Parties:

Re: Erickson v. Director, Ministry of the Environment
Case Nos.: 10-121 and 10-122

Further to the Notice of Appeal filed on November 29, 2010 the Tribunal has scheduled the hearing of this matter. You will find enclosed a copy of the Notice of Preliminary Hearing and Hearing that is being sent to all Parties or their representatives, to all owners of nearby lands, and other individuals or organizations who have been identified as having an interest in this matter. Also enclosed is a copy of the Schedule of Events for determination of the appeal and a copy of the "Notice To Owners of Nearby Lands", for your information.

Thank you for your anticipated co-operation.

Yours truly,

A handwritten signature in cursive script that reads "Dina Ostella".

Dina Ostella
Case Manager

Encls.

**Environment and Land Tribunals
Ontario**

Environmental Review Tribunal

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

Tribunal de l'environnement



655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 314-4506
Website: www.erto.gov.on.ca

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 314-4506
Site Web: www.erto.gov.on.ca

NOTICE TO ALL OWNERS OF NEARBY LANDS:

Enclosed is a Notice of Hearing for an appeal before the Environmental Review Tribunal. You are being notified of this hearing because you are an owner of land near the approved renewable energy project.

It is the Tribunal's policy to notify all owners of nearby lands to allow interested persons or groups of individuals the opportunity to participate at the Hearing. **You are not required to attend the hearing**, but if you do choose to participate, there are four ways in which you may do so. They are as follows:

1. You may attend the hearing and observe the proceedings, but not actively participate.
2. You may request the hearing panel to grant you **presenter** status at the hearing. As a presenter, you will be able to provide your testimony under oath or solemn affirmation at the hearing, and be cross-examined by all parties. You may also file written material in addition to your oral presentation.
3. You may request that the Tribunal grant you **participant** status at the hearing. As a participant, you will be able to provide your testimony under oath or solemn affirmation at the hearing, and be cross-examined by all parties. You may also file written material in addition to your oral presentation. Participants, however, are expected to attend each day of the hearing so that any submissions made to the Tribunal will reflect the evidence given by all the parties, and others, during the course of the entire hearing.
4. You may request that the Tribunal grant you **party** status. This means that you have the right to present evidence through witnesses, cross-examine witnesses and make submissions. Parties are often represented by legal counsel. Parties are expected to attend all hearing days, including days allocated to final argument.

Should you wish to participate in these proceedings, you should immediately write, fax or email the Case Manager to indicate your intention. You should visit the Tribunal's website to obtain a copy of the Rules of Practice and Practice Directions of the Environmental Review Tribunal. The Tribunal's website is located at www.erto.gov.on.ca. If you do not have Internet access, a copy of the Rules of Practice and Practice Directions will be mailed upon request.

Yours truly,


Donna Symonds
(Acting) Tribunal Secretary

**Environment and Land Tribunals
Ontario**

Environmental Review Tribunal

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

Tribunal de l'environnement



655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 314-4506
Website: www.elto.gov.on.ca

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 314-4506
Site Web: www.elto.gov.on.ca

Case Nos.: 10-121 and 10-122

NOTICE OF PRELIMINARY HEARING AND HEARING

In the matter of appeals by Katie Brenda Erickson and Chatham-Kent Wind Action Inc. filed on November 29, 2010 for a Hearing before the Environmental Review 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 November 12, 2010 to Kent Breeze Corp. and MacLeod Windmill Project Inc. (Kent Breeze Wind Farms) c/o Suncor Energy Services Inc. under section 47.3(1) of the *Environmental Protection Act*, regarding the construction, installation, operation, use and retiring of eight wind turbine generators located at Part Lots 8-11, Concession 1 and Part Lots 4-6, Concession 1 & 2, in the Township of Camden, Municipality of Chatham-Kent, 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 **Tuesday, January 11, 2011 at 10:00 a.m.**, in the **Council Chambers, Municipality of Chatham-Kent, Civic Centre, 315 King Street West, Chatham, Ontario** and **be continued by teleconference on January 28, 2011 at 10:00 a.m.** 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 Manager by 4:00 p.m. no later than **Wednesday, January 5, 2011** 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 **Tuesday, February 1, 2011, at 10:00 a.m.** in the **Council Chambers, Municipality of Chatham-Kent, Civic Centre, 315 King Street West, Chatham, Ontario.**

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 the Hearing to be translated into French, please advise the Case Manager as soon as you receive this notice.

Si vous avez besoin de services en français, veuillez appeler le Tribunal de l'environnement au 416-314-4600 (sans frais 1-866-448-2248).

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.

Please note that any information or documents you provide to the Tribunal in relation to this case become part of a public record which is open to inspection by any person, unless a document is marked "confidential" by order of the Tribunal. For more information, please consult Rules 210 and 211 of the Tribunal's Rules of Practice.

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 **6th** day of **December, 2010**.



Donna Symonds
(Acting) Tribunal Secretary

Information Contact:

Dina Ostella
Case Manager
Environmental Review Tribunal
655 Bay Street, Suite 1500
Toronto, Ontario M5G 1E5
Case Manager's email: dina.ostella@ontario.ca
Tel: (416) 314-4600
Toll Free: 1-866-448-2248
Fax: (416) 314-4506
Tribunal website: www.elto.gov.on.ca

Schedule of Events for Appeal Numbers 10-121 and 10-122

November 12, 2010	November 29, 2010	December 2, 2010	December 6, 2010	December 13, 2010	December 20, 2010	January 5, 2011
Notice of decision on renewable energy project posted on Environmental Registry	Appeal expiry date	Notice list: Director gives Tribunal name and address list for notices	Notice from Tribunal: Preliminary Hearing, Continuation of Preliminary Hearing and Hearing dates	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 and filing of existing documents within Parties' possession, control or power (except privileged documents), 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.

January 10, 2011	January 11, 2011	January 12, 2011	January 17, 2011	January 25, 2011	January 28, 2011	February 1, 2011	May 30, 2011
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)	Disclosure: Exchange among Parties and filing of additional documents, witness lists and statements, and resumes of expert witnesses, relevant to subject matter of the appeal, to be relied on at the Hearing	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 commencement of Hearing	Release of Tribunal's Decision (as required by the <i>Environmental Protection Act</i>)

* Note: the Tribunal may vary the timeline as appropriate and issue directions at any stage of the proceeding, subject to the requirements of the statute or regulations, including the requirement to issue the decision within six months.

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

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



655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 314-4506
Website: www.elto.gov.on.ca

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 314-4506
Site Web: www.elto.gov.on.ca

FAX COVER SHEET

DATE: December 6, 2010 **FROM:** Dina Ostella, Case Manager

TOTAL NUMBER OF PAGES (INCLUDES FAX COVER SHEET): 7

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME	COMPANY	FAX
Eric K. Gillespie	Counsel for Appellant, Katie Brenda Erickson and Appellant, Chatham-Kent Wind Action Inc.	416-703-9111
Albert M. Engel	Counsel for Renewal Energy Approval Holder	416-941.8852
Frederika Rotter & Andrea Huckins	MOE, Legal Services Branch	416-314-6579

REMARKS:

10-121 - Erickson v. Director, Ministry of the Environment
10-122 - Chatham-Kent Wind Action Inc. v. Director, Ministry of the Environment

Original to be sent:	Copy via Regular mail:	Messenger:
Yes No	Yes No	Yes No

RE: Please see the attached correspondence for the above-noted appeals.

IF YOU DID NOT RECEIVE ALL THE PAGES SPECIFIED, OR IF YOU HAVE TROUBLE READING THEM, PLEASE CALL (416) 314-4712.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, PLEASE NOTE THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL TO US BY POSTAL SERVICE AT THE ADDRESS NOTED ABOVE. THANK YOU.

TRANSACTION REPORT

DEC-06-2010 MON 03:39 PM

FOR: environmentalreview

416 314 4506

FAX BROADCAST

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-06	03:33 PM	94167039111	1' 08"	7	FAX TX	OK	616	
	03:35 PM	94169418852	2' 26"	7	FAX TX	OK	616	
	03:38 PM	94163146579	1' 11"	7	FAX TX	OK	616	

TOTAL : 4M 45S PAGES: 21

Environment and Land Tribunals
Ontario
Environmental Review Tribunal

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



655 Bay Street, Suite 1600
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 314-4508
Website: www.eto.gov.on.ca

655 rue Bay, suite 1600
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 314-4506
Site Web: www.eto.gov.on.ca

FAX COVER SHEET

DATE: December 6, 2010 FROM: Dina Ostella, Case Manager

TOTAL NUMBER OF PAGES (INCLUDES FAX COVER SHEET): 7

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME	COMPANY	FAX
Eric K. Gillespie	Counsel for Appellant, Katie Brenda Erickson and Appellant, Chatham-Kent Wind Action Inc.	416-703-9111
Albert M. Engel	Counsel for Renewal Energy Approval Holder	416-941.8852
Frederika Rotter & Andrea Huckins	MOE, Legal Services Branch	416-314-6579

REMARKS:

10-121 - Erickson v. Director, Ministry of the Environment
10-122 - Chatham-Kent Wind Action Inc. v. Director, Ministry of the Environment

Original to be sent:	Copy via Regular mail:	Messenger:
Yes No	Yes No	Yes No

RE: Please see the attached correspondence for the above-noted appeals.

IF YOU DID NOT RECEIVE ALL THE PAGES SPECIFIED, OR IF YOU HAVE TROUBLE READING THEM, PLEASE CALL (416) 314-4712.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, PLEASE NOTE THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL TO US BY POSTAL SERVICE AT THE ADDRESS NOTED ABOVE. THANK YOU.