

Wallace presses DWPI for mitigation plans at Tribunal Hearing

At the preliminary hearing of the Environmental Review Tribunal December 2nd, Green Party candidate Karren Wallace, acting as a private citizen, pressed Dufferin Wind Power Inc. (DWPI) for public disclosure of mitigation plans for 316 transmission line poles placed deep in Dufferin soil. Citizen concerns arising from pole bore holes extending into the fragile Melancthon aquifer possibly allowing for ground water contamination, and fears that the pentachlorophenol (penta), a wood preservative coating the entire length of the poles, may travel into surrounding wells prompted Wallace to file as a private citizen for the hearing.

Wallace had said previously that her objection was based on DWPI's mitigation plan for transmission lines never being formally approved. The DWPI transmission poles, located along side the County owned rail corridor, carry the power from 49 new turbines in Melancthon to the transformer station near Hwy 9 and the 3rd Line of Amaranth. Wallace looked at the issue of possible health risks posed by DWPI penta covered transmission pole holes, many surrounded by water, some constructed in wetlands, and others near manure piles, "Walkerton had one conduit for contamination," said Wallace, "We now have 316."

The Environmental Review Tribunal is an independent body that hears public appeals including the Environmental Act. The December 2nd proceedings were to confirm procedural directions for the main hearing to be held in the coming year. The panel for the preliminary hearing, held at Centre Dufferin Recreation Complex in Shelburne, included Dirk VanderBent Vice Chair of the Environmental Review Tribunal and Tribunal member Justin Duncan. Opposing Wallace was DWPI lawyer John Terry plus an additional lawyer for DWPI and Sylvia Davies the lawyer for the Director of the Ministry of the Environment and Climate Control (MOECC).

Despite numerous serious complaints about DWPI from both Shelburne and Melancthon councils, including Melancthon Township's demands for mitigation plans, elected officials followed the advice of municipal lawyers and none were present to observe proceedings at the preliminary hearing. Wallace views the process for requesting a hearing and being a party "tipped against the average citizen" as plaintiffs are expected to hire and pay for experts in a matter of weeks. "Protecting our water should be the responsibility of our government," said Wallace, "and the burden of proof should be on the proponent NOT private citizens."

Depending on the outcome of the Drennan case in London, where farmers have brought a Constitutional Challenge to the Divisional Court against annoyance from wind turbines, Wallace may get her wish. According to Ontario's environmental law, the onus is on the public to show "serious harm" to their health to stop the approval of a wind turbine project. Julian Falconer, lawyer for the Drennan family, who say life will be intolerable on their farm if the development is approved, stated that under Section 7 of the Charter of Rights, which protects security of the person, "governments must not impose a reasonable prospect of serious harm on their citizens." Wallace has asked for a motion for a Tribunal adjournment until the Drennan case decision, now in deliberation, is heard from the Divisional Court.

Vice Chair VanderBent moved proceedings into Chambers so that parties could address each other directly rather than through him as required in the hearing procedure. Wallace who objected to the move, later said, "I respect the Tribunal's direction and assistance, but was very against going behind closed doors as there has been a decided lack of transparency in this project."

As a result of the discussions, motions were brought forth by both DWPI and Wallace. Wallace said she would be putting forth a motion asking for adjournment until the Drennan decision; requesting a site visit to the four turbines with the most concerns regarding mitigation; and requesting disclosure of DWPI mitigation plans to the public. DWPI lawyer John Terry said, the corporation would be "moving to dismiss the appeal on the basis that it is not within the jurisdiction of the Tribunal." When asked to elaborate he said, "No comment." When asked why DWPI would not reveal mitigation plans in the interest of good public relations rather than create further public suspicion that there was something wrong with the plans, he replied again, "No comment."

By Marni Walsh